



## 2013 ASSEMBLY BILL 383

September 20, 2013 – Introduced by Representative J. OTT, by request of Wisconsin  
Judicial Council. Referred to Committee on Judiciary.

1     **AN ACT to repeal** 758.19 (5) (a) 5., 940.49, 967.02 (title), 967.02 (3) and (4), 967.02  
2           (8), 967.03, 967.05 (1) (b) and (c), 967.05 (2) and (3), 967.06 (title), 967.06 (2) (b),  
3           967.07, 967.08 (2) (d), 968.01 (1) (c), 968.02 (2), 968.02 (3), 968.02 (4), 968.03  
4           (title) and (3), 968.03 (1), 968.04 (1) (a), 968.04 (2) (title), 968.04 (2) (c), 968.04  
5           (3) (title), 968.04 (3) (a) 8., 968.04 (3) (b) 3. a., 968.04 (3) (b) 3. b. (intro.), 968.04  
6           (3) (b) 4., 968.06, 968.085 (2) (a) to (f), 968.09 (2), 968.12 (3) (e), 969.001 (2),  
7           969.01 (2) (title), 969.02 (title), (1), (2), (3) (a), (b), (c) and (d), (4), (4m), (5), (7),  
8           (7m) and (8), 969.03, 969.05, 969.08 (1), (2), (3) and (4), 969.09 (title), (1) and  
9           (3), 969.13, 969.14, 970.01 (title), 970.01 (2), 970.02 (title), 970.02 (1) (intro.),  
10          970.02 (1) (c), 970.02 (3), 970.02 (4), 970.02 (5), 970.03 (title), (1), (2), (3), (5), (7),  
11          (8), (9), (10), (13) and (14), 970.032 (title), 970.035, 970.038, 970.04, 970.05,  
12          971.01, 971.02, 971.04 (1) (a), 971.05, 971.06 (1) (d), 971.06 (2), 971.06 (3),  
13          971.07, 971.08 (3), 971.14 (title), 971.14 (1g), 971.14 (1r) (title), 971.14 (1r) (c),  
14          971.14 (2) (title), 971.14 (2) (am), 971.14 (3) (dm) 1. and 2., 971.14 (4) (title),

**ASSEMBLY BILL 383**

1 971.14 (4) (b), 971.14 (4) (c), 971.14 (4) (d), 971.14 (5) (title), 971.14 (6) (title),  
2 971.14 (6) (a), 971.16 (1), 971.16 (3) (a), 971.16 (3) (b), 971.17 (1j) (title), 971.17  
3 (1m) (title), 971.17 (2) (title), 971.17 (3) (title), 971.17 (4m), 971.17 (6m) (title),  
4 971.17 (6m) (a) 1., 971.17 (6m) (b), 971.17 (6m) (c), 971.17 (7) (d), 971.20 (3),  
5 971.225 (1) (b), 971.23 (title), 971.23 (2m) (a), 971.23 (2m) (am), 971.23 (5c)  
6 (title), 971.23 (6c) (title), 971.23 (7m) (b), 971.23 (8) (b), 971.23 (8) (c), 971.23 (8)  
7 (e), 971.23 (10) (title), 971.29 (3), 971.30 (title) and (1), 971.31 (title), 971.31 (1),  
8 971.31 (5), 971.31 (7), 971.31 (8), 972.02 (title), 972.04 (2), 972.09, 972.10 (1) (a)  
9 (intro.), 972.10 (1) (a) 2., 972.10 (2), 972.10 (3), 972.10 (4), 972.10 (6), 972.115  
10 (title), 972.13 (title), 972.13 (6), 972.13 (7), 972.14 (1) (ag), 973.049 (1) (b),  
11 973.20 (1g), 974.05 (3), 975.001, 975.01, 975.06, 975.07, 975.08, 975.09, 975.10,  
12 975.11, 975.12, 975.15, 975.16, 975.17, 975.18, 979.05 (title), 979.06 (title), (1),  
13 (2) and (5), 979.07 and 979.08 (2); **to renumber** 967.02 (intro.), 967.02 (5),  
14 967.057, 967.06 (3), 967.08 (title), 967.10, 967.11, 968.01 (1) (intro.), (a) and (b),  
15 968.01 (4), 968.04 (2) (b), 968.04 (3) (b) (title), 968.075 (title), 968.075 (1),  
16 968.075 (2) (ar), 968.075 (2) (b), 968.075 (3), 968.075 (4), 968.075 (6) to (9),  
17 968.085 (3) (intro.), 968.085 (3) (c), 968.085 (6), 968.12 (4), 968.13 (1) (b), (c) and  
18 (d), 968.135 (title), 968.17, 968.18, 968.20 (title), 968.20 (1r), 968.21, 968.22,  
19 968.23, 968.24, 968.255 (title), 968.255 (5), 968.265, 968.27 (2), 968.27 (5),  
20 968.27 (8), 968.27 (12) and (13), 968.27 (14), 968.27 (14g), 968.27 (15), 968.27  
21 (17), 968.33, 968.505 (title), 969.01 (title), 969.01 (2) (e), 969.08 (5) (a), 969.08  
22 (5) (b) 2., 969.08 (5) (b) 5., 969.08 (6), 969.08 (9), 969.08 (10), 969.12, 970.02 (7),  
23 970.02 (8), 970.032 (2) (a), (b) and (c), 971.04 (title), 971.12 (title), 971.14 (1r)  
24 (a), 971.14 (2) (f), 971.14 (3) (a) and (b), 971.16 (title), 971.165 (title), 971.17  
25 (title), 971.17 (1j) (a), 971.17 (4) (title), 971.17 (5) (title), 971.17 (6m) (a) 2.,

**ASSEMBLY BILL 383**

1 971.17 (6m) (a) 3., 971.17 (7) (title), 971.17 (7m), 971.225 (title), 971.23 (1) (c),  
2 971.23 (1) (h), 971.23 (5c), 971.23 (8) (title), 971.23 (10), 971.26, 971.32, 971.34,  
3 971.36, 971.365, 972.10 (title), 972.11 (title), 972.13 (4), 973.18 (title), 973.18  
4 (5), 973.19 (title) and 979.08 (title); **to renumber and amend** 801.50 (5t),  
5 967.02 (1), 967.02 (2), 967.02 (6), 967.02 (7), 967.04 (title), (1), (2), (3), (4), (5) and  
6 (6), 967.04 (7) (a), 967.04 (7) (b), 967.04 (8), 967.04 (9), 967.04 (10), 967.05 (title),  
7 967.055, 967.08 (1), 967.08 (2) (intro.), 967.08 (2) (a) to (c), 967.08 (3) (intro.),  
8 967.08 (3) (a) to (f), 967.09, 968.01 (title), 968.01 (2), 968.01 (3), 968.02 (title)  
9 and (1), 968.03 (2), 968.04 (title), 968.04 (1) (intro.), 968.04 (1) (b), 968.04 (1) (c),  
10 968.04 (1) (d), 968.04 (2) (a), 968.04 (3) (a) (intro.), 968.04 (3) (a) 1. to 6., 968.04  
11 (3) (a) 7., 968.04 (3) (b) 1., 968.04 (3) (b) 2., 968.04 (3) (b) 3. (intro.), 968.04 (3)  
12 (b) 3. b. (form), 968.04 (4), 968.05, 968.07, 968.073, 968.075 (2) (a), 968.075 (2)  
13 (am), 968.075 (2m), 968.075 (5), 968.08, 968.085 (title), 968.085 (1), 968.085 (2)  
14 (intro.), 968.085 (3) (a), 968.085 (3) (b), 968.085 (3) (d), 968.085 (4), 968.085 (5),  
15 968.085 (7), 968.085 (8), 968.09 (title), 968.09 (1), 968.10, 968.11, 968.12 (title),  
16 968.12 (1), 968.12 (3) (title), 968.12 (3) (b), 968.13 (title), 968.13 (1) (intro.),  
17 968.13 (1) (a), 968.13 (2), 968.135, 968.14, 968.15, 968.16, 968.19, 968.20 (1),  
18 968.20 (1m), 968.20 (2), 968.20 (3) and (4), 968.205, 968.25, 968.255 (1), 968.255  
19 (2) (intro.), 968.255 (2) (a), 968.255 (2) (b), (c), (d) and (e), 968.255 (3), 968.255  
20 (4), 968.255 (6), 968.255 (7), 968.256, 968.26, 968.27 (intro.), 968.27 (1), 968.27  
21 (3), 968.27 (4), 968.27 (6), 968.27 (7), 968.27 (9), 968.27 (10), 968.27 (11), 968.28,  
22 968.29, 968.30, 968.31, 968.32, 968.34, 968.35, 968.36, 968.37, 968.38, 968.40  
23 (title), 968.40 (1), 968.40 (3), 968.40 (4), 968.40 (6), (7) and (8), 968.41, 968.42,  
24 968.43, 968.44, 968.45 (title), 968.45 (1), 968.45 (2), 968.46, 968.47, 968.48,  
25 968.49, 968.50, 968.505, 968.51, 968.52, 968.53, 969.001 (intro.), 969.001 (1),

**ASSEMBLY BILL 383**

1 969.01 (1), 969.01 (2) (a), 969.01 (2) (d), 969.01 (3), 969.01 (4), 969.02 (2m),  
2 969.02 (3) (e), 969.02 (6), 969.035, 969.04, 969.065, 969.07, 969.08 (title), 969.08  
3 (5) (b) 1., 969.08 (5) (b) 3., 969.08 (5) (b) 4., 969.08 (7), 969.08 (8), 969.08 (9m),  
4 969.09 (2), 969.11, 970.01 (1), 970.02 (1) (a), 970.02 (2), 970.03 (4), 970.03 (6),  
5 970.03 (12), 970.032 (1), 970.032 (2) (intro.), 971.04 (1) (intro.), 971.04 (1) (b),  
6 (c), (d), (e), (f), (g) and (h), 971.04 (2), 971.04 (3), 971.08 (1) (a), 971.10 (1), 971.10  
7 (2) (a), 971.10 (2) (b), 971.10 (3) (a), 971.10 (4), 971.12 (1) and (2), 971.12 (3),  
8 971.12 (4), 971.13, 971.14 (1r) (b), 971.14 (2) (a), 971.14 (2) (b), 971.14 (2) (c),  
9 971.14 (2) (d), 971.14 (2) (e), 971.14 (2) (g), 971.14 (3) (intro.), 971.14 (3) (c),  
10 971.14 (3) (d), 971.14 (3) (dm) (intro.), 971.14 (3) (e), 971.14 (4) (a), 971.14 (5)  
11 (a) 1., 2. and 3., 971.14 (5) (a) 4., 971.14 (5) (am), 971.14 (5) (b), 971.14 (5) (c),  
12 971.14 (5) (d), 971.14 (6) (b), 971.14 (6) (c), 971.14 (6) (d), 971.15, 971.16 (2),  
13 971.16 (3) (intro.), 971.16 (4), 971.16 (5), 971.16 (6), 971.165 (1), 971.165 (2),  
14 971.165 (3) (a), 971.165 (3) (b), 971.17 (1), 971.17 (1g), 971.17 (1h), 971.17 (1j)  
15 (b), 971.17 (1m) (a), 971.17 (1m) (b) 1m. a., 971.17 (1m) (b) 1m. b., 971.17 (1m)  
16 (b) 2m., 971.17 (1m) (b) 3., 971.17 (1m) (b) 4., 971.17 (1m) (b) 5., 971.17 (2) (a),  
17 971.17 (2) (b), 971.17 (2) (c), 971.17 (2) (d), 971.17 (2) (e), 971.17 (2) (f), 971.17  
18 (2) (g), 971.17 (3) (a), 971.17 (3) (b), 971.17 (3) (c), 971.17 (3) (d), 971.17 (3) (e),  
19 971.17 (4) (a), 971.17 (4) (b), 971.17 (4) (c), 971.17 (4) (d), 971.17 (4) (e), 971.17  
20 (5), 971.17 (6), 971.17 (6m) (a) (intro.), 971.17 (6m) (d), 971.17 (7) (a), 971.17 (7)  
21 (b), 971.17 (7) (c), 971.17 (8), 971.18, 971.19, 971.20 (title), (1), (2), (4), (5), (6),  
22 (7), (8), (9), (10) and (11), 971.22, 971.223, 971.225 (1) (intro.), (a) and (c),  
23 971.225 (2), 971.23 (1) (intro.), 971.23 (1) (a), 971.23 (1) (b), 971.23 (1) (bm),  
24 971.23 (1) (d), 971.23 (1) (e), 971.23 (1) (f), 971.23 (1) (g), 971.23 (2m) (intro.),  
25 971.23 (2m) (b), 971.23 (2m) (c), 971.23 (3), 971.23 (5), 971.23 (6) (title), 971.23

**ASSEMBLY BILL 383**

1 (6), 971.23 (6c), 971.23 (6m), 971.23 (7), 971.23 (7m) (a), 971.23 (8) (a), 971.23  
2 (8) (d), 971.23 (9), 971.23 (11), 971.27, 971.29 (title), 971.29 (1), 971.29 (2),  
3 971.31 (2), 971.31 (3), 971.31 (4), 971.31 (6), 971.31 (9), 971.31 (10), 971.31 (11),  
4 971.31 (12), 971.31 (13), 971.315, 972.02 (1), 972.02 (2), 972.02 (3), 972.02 (4),  
5 972.03, 972.07, 972.08, 972.085, 972.10 (1) (a) 1., 972.10 (1) (b), 972.10 (5),  
6 972.10 (7), 972.11 (1), 972.11 (2), 972.11 (2m) (a) (intro.) and 1., 972.11 (2m) (b),  
7 972.11 (2m) (bm), 972.11 (2m) (c) (intro.), 1m., 2m. and 3m., 972.11 (3), 972.11  
8 (3m), 972.11 (4), 972.115 (1), 972.115 (2), 972.115 (4) and (5), 972.12, 972.13 (1),  
9 972.13 (2), 972.13 (3), 972.13 (5), 972.14 (title), (2), (2m) and (3), 972.15, 973.18  
10 (1), 973.18 (2), (3) and (4), 973.19 (1) (a), 973.19 (1) (b), 973.19 (2), (3), (4) and  
11 (5), 979.04, 979.05 (1), 979.05 (2), 979.05 (3), 979.05 (4), 979.05 (5), (6) and (7),  
12 979.06 (3), (4) and (6), 979.08 (1), 979.08 (3) (a), 979.08 (3) (b), 979.08 (5), 979.08  
13 (6) and 979.08 (7); **to consolidate, renumber and amend** 967.05 (1) (intro.)  
14 and (a), 967.06 (1) and (2) (a), 968.12 (2) and (3) (a) and (d), 968.12 (3) (c) and  
15 (f), 968.27 (16) (intro.), (a) and (b), 969.01 (2) (b) and (c), 970.02 (1) (b) and (6),  
16 971.11 (2) and (3), 971.30 (2) (intro.), (a), (b) and (c), 972.11 (2m) (a) 2. (intro.),  
17 a. and b., 972.14 (1) (intro.) and (b) and 979.08 (3) (intro.) and (4); **to amend** 6.10  
18 (7m) (a) (intro.), 6.10 (7m) (a) 2., 13.35 (2), 16.84 (2), 17.16 (7) (b), 19.32 (1b),  
19 20.435 (2) (bj), 20.435 (2) (gk), 20.550 (1) (f), 23.33 (4c) (b) 3., 23.56 (1), 23.65 (2),  
20 29.921 (6), 29.938 (2), 29.972 (1) (a), 29.972 (1) (c), 29.974 (1), 29.974 (2) (b),  
21 30.681 (2) (c), 46.10 (2), 46.90 (6) (bt) 8., 48.31 (2), 48.366 (1) (b), 48.396 (2) (dr),  
22 48.78 (2) (d) 1., 48.981 (1) (b), 48.981 (7) (a) 14m., 49.138 (1m) (c), 49.19 (4) (d)  
23 3., 49.95 (8), 51.05 (2), 51.20 (1) (am), 51.20 (16) (j), 51.30 (3) (b), 51.30 (4) (b)  
24 8m., 51.30 (4) (b) 9., 51.30 (4) (b) 11., 51.30 (4) (b) 12m., 51.30 (4) (b) 16., 51.30  
25 (7), 51.37 (1), 51.37 (3), 51.37 (4), 51.37 (9), 51.37 (10) (am), 51.375 (1) (a), 51.39,

**ASSEMBLY BILL 383**

1 51.42 (3) (as) 1m., 51.42 (3) (as) 1r., 51.42 (3) (aw) 1. d., 51.437 (4rm) (a), 51.61  
2 (1) (intro.), 51.61 (1) (e), 51.61 (1) (i) 1., 51.87 (3), 55.043 (6) (bt) 8., 55.075  
3 (intro.), 59.34 (2) (a), 59.40 (2) (c), 66.0113 (3) (e), 66.0114 (1) (a), 66.0139 (4) and  
4 (5), 69.18 (2) (f) 3., 77.61 (12) (b), 93.17 (2), 102.13 (5), 102.88 (1) and (2), 103.10  
5 (1m) (b) 1., 110.001 (1m), 110.07 (2m), 110.07 (4), 111.07 (2) (b) 2., 125.14 (6) (a),  
6 128.16 (2), 133.15 (2), 134.43 (3), 139.20 (2), 139.39 (5) (b), 146.81 (4), 146.82 (2)  
7 (c), 154.30 (3) (a) 2., 165.76 (1) (b), 165.76 (1) (g), 165.76 (1) (g), 165.76 (1m),  
8 165.76 (1m), 165.76 (2m) (g), 165.76 (4) (a), (b) and (c), 165.765 (1m), 165.765  
9 (2) (a) 1., 165.77 (2) (b), 165.77 (2) (b), 165.77 (2m) (c), 165.77 (2m) (c), 165.77  
10 (3), 165.77 (3), 165.77 (4) (am) 1., 165.77 (4) (am) 2. (intro.), a., b. and d., 165.79  
11 (1), 165.81 (1), 165.81 (3) (a) 1. and 2., (b) and (f), 167.10 (8) (b), 169.42 (2) (b),  
12 169.45 (5) (intro.), 173.10, 173.12 (1m), 175.60 (3) (d), 175.60 (3) (e), 175.60 (9g)  
13 (a) 2., 175.60 (11) (a) 2. b., 175.60 (11) (a) 2. c., 175.60 (11) (a) 2. g., 175.60 (11)  
14 (a) 2. i., 175.60 (14) (am), 195.048 (2), 196.207 (3) (e), 196.48 (1) (b), 230.81 (2),  
15 251.16, 252.11 (5m), 252.11 (7), 252.15 (2m) (b) 3., (3m) (d) 14. and (4) (c), 301.03  
16 (3c), 301.03 (7m), 301.035 (2), 301.035 (4), 301.45 (1g) (c), 301.45 (1g) (d), 301.45  
17 (1g) (dd), 301.45 (1g) (dp), 301.45 (1g) (e), 301.45 (1m) (b), 301.45 (1m) (be),  
18 301.45 (1m) (bm), 301.45 (1m) (bv), 301.45 (1m) (d) 1., 301.45 (1m) (e) (intro.),  
19 301.45 (1p) (b), 301.45 (3) (a) 3., 301.45 (3) (a) 3g., 301.45 (3) (b) 3., 301.45 (5)  
20 (a) 3., 301.45 (5) (a) 3m., 301.45 (5) (b) 3., 301.45 (6) (a) 2. a., 301.45 (6) (ag) 2.  
21 a., 301.45 (6) (bm), 301.45 (7) (f) 4., 301.46 (3) (d), 301.47 (3) (b) 1., 301.48 (2)  
22 (a) 4., 301.48 (2) (a) 5., 301.48 (2) (b) 3., 302.113 (9) (e), 302.114 (9) (d), 304.06  
23 (3), 304.10 (1) (b), 322.0767 (1) (a), 322.0767 (1) (b), 322.0767 (1) (c), 322.0767  
24 (1) (d), 322.0767 (2) (a), 322.0767 (2) (b), 322.0767 (2) (c), 322.0767 (2) (d),  
25 322.0767 (2) (e), 343.305 (9) (c), 345.20 (1) (a), 345.20 (2) (c), 345.28 (3) (a),

**ASSEMBLY BILL 383**

1 345.28 (5) (b) 1., 345.31, 346.63 (2) (am), 346.63 (6) (b), 350.101 (2) (c), 551.602  
2 (5) (b), 553.55 (3) (b), 601.62 (5) (b), 631.95 (1) (c), 704.16 (1) (b) 4., 704.16 (1) (b)  
3 7., 704.16 (3) (b) 2. d., 704.16 (3) (b) 2. g., 756.06 (2) (a), 756.06 (2) (c), 757.54 (2)  
4 (a) 1., 757.54 (2) (a) 2., 757.69 (1) (b), 757.69 (1) (i), 758.171, 767.87 (4) (b), 781.04  
5 (1), 785.03 (1) (b), 800.035 (8), 801.02 (7) (a) 2. c., 801.02 (7) (a) 2. e., 801.52,  
6 807.05, 808.03 (3) (b), 808.04 (3), 808.04 (4), 808.075 (4) (b) 4., 808.075 (4) (g)  
7 1., 808.075 (4) (g) 2., 808.075 (4) (g) 7., subchapter III (title) of chapter 809  
8 [precedes 809.30], 809.30 (title), 809.30 (1) (a), 809.30 (1) (b) 4., 809.30 (1) (c),  
9 809.30 (1) (e), 809.30 (2) (a), 809.31 (6), 814.22 (1) (intro.), 814.69 (1) (a), 885.01  
10 (2), 885.15 (2), 885.24 (2), 885.25 (2m), 885.365 (1), 885.64 (2), 891.39 (1) (b),  
11 891.39 (2) (b), 893.93 (1) (d), 895.01 (1) (am) 7., 895.34, 895.446 (4), 895.45 (1)  
12 (a), 895.46 (9) (a) (intro.) and 2. and (b) (intro.) and 2., 895.54, 901.01, 901.04  
13 (1), 901.04 (3) (cm), 901.05 (3), 904.04 (1) (b), 904.06 (1), 906.08 (1) (intro.),  
14 906.08 (2), 907.06 (5), 908.08 (5) (am), 908.08 (5) (b), 908.08 (6), 911.01 (1),  
15 911.01 (4) (b), 911.01 (4) (c), 938.183 (1) (ar), 938.183 (1m) (b), 938.195 (1) (a),  
16 938.293 (2), 938.30 (2), 938.30 (5) (c) (intro.), 938.30 (5) (d) (intro.), 938.30 (5)  
17 (e) 1. (intro.), 938.31 (2), 938.31 (3) (a) 4., 938.31 (3) (d), 938.315 (2), 938.35 (1)  
18 (cm), 938.396 (1) (a), 938.396 (2g) (dr), 938.535, 938.78 (2) (d) 1., 939.60, 939.615  
19 (2) (a), 939.615 (3) (d), 939.621 (1) (a), 939.621 (2), 939.74 (1), 939.74 (3), 939.74  
20 (4), 940.09 (1m) (a), 940.09 (1m) (b), 940.225 (4) (intro.), 940.25 (1m) (a), 940.25  
21 (1m) (b), 940.32 (2m) (d), 940.48 (intro.), 941.28 (5), 941.29 (3), 943.245 (3m),  
22 943.51 (3r), 946.42 (3) (g), 946.49 (1) (intro.), 946.49 (2), 946.52, 946.60 (1),  
23 946.86 (2), 946.87 (2) (am), 948.015 (9), 948.31 (5), 948.50 (4) (c), 948.50 (5),  
24 949.165 (1) (a), 949.165 (9), 950.04 (1v) (b), 950.04 (1v) (d), 950.04 (1v) (dL),  
25 950.04 (1v) (e), 950.04 (1v) (em), 950.04 (1v) (g), 950.04 (1v) (L), 950.04 (1v) (m),

**ASSEMBLY BILL 383**

1 950.04 (1v) (p), 950.04 (1v) (qm), 950.04 (1v) (s), 950.04 (1v) (um), 950.04 (1v)  
2 (x), 950.04 (2w) (f), 950.055 (2) (b), 950.08 (2g) (c), 950.08 (2g) (e), 950.08 (2r)  
3 (intro.), 951.01 (4), 961.48 (2m) (a), 961.48 (2m) (b) (intro.), 961.56 (1), 967.01,  
4 969.10, 971.06 (1) (a), (b) and (c), 971.08 (title), 971.08 (1) (d), 971.095 (2) and  
5 (3), 971.10 (3) (b) (intro.), 1. and 2., 971.10 (3) (c), 971.105, 971.11 (1), 971.11 (4),  
6 971.11 (5), 971.11 (6), 971.11 (7), 971.38 (1), 971.39 (1) (intro.), 972.01, 972.03  
7 (title), 972.04 (1), 972.06, 973.013 (4), 973.017 (6m) (a) 2., 973.03 (3) (b), 973.03  
8 (3) (e) 2., 973.03 (4) (d), 973.03 (5) (a) 1., 973.03 (5) (a) 2., 973.042 (4), 973.043  
9 (2), 973.045 (2), 973.046 (2), 973.048 (5), 973.05 (3) (b), 973.05 (4) (b), 973.05 (4)  
10 (c), 973.05 (5) (a) 1., 973.05 (5) (a) 2., 973.05 (5) (c), 973.05 (5) (d), 973.05 (5) (e),  
11 973.055 (2) (a), 973.06 (1) (av) 2. a. and b., 973.06 (1) (h), 973.076 (2) (a), 973.08  
12 (5), 973.09 (2) (a) 1. b., 973.09 (3) (b), 973.09 (3) (bm) 4., 973.09 (7m) (a), 973.10  
13 (2m), 973.135 (3), 973.195 (1r) (e), 973.20 (1r), 973.20 (9m), 973.20 (11) (a),  
14 973.20 (12) (c), 974.02, 974.05 (1) (intro.), 974.05 (1) (a), (b), (c) and (d) (intro.),  
15 1. and 2., 974.05 (2), 974.06 (title), (1), (2) and (3) (intro.), (a), (b) and (d), 974.06  
16 (4), 974.06 (5), (6), (7) and (8), 974.07 (4) (b), 974.07 (7) (b) 1., 974.07 (9) (a),  
17 974.07 (10) (a) 4., 977.05 (4) (h), 977.05 (4) (j), 977.05 (6) (b) 2., 977.05 (6) (e)  
18 (intro.) and 2., 978.045 (1r) (intro.), 978.045 (1r) (i), 978.05 (3), 978.05 (4), 978.05  
19 (6) (a), 978.06 (4), 978.08 (1) (a) and (b) and (2), 979.02, 979.025 (1), 979.025 (2),  
20 979.09, 979.10 (2), 979.11, 979.22, 980.015 (2) (c), 980.015 (2) (d), 980.031 (4),  
21 980.036 (2) (c), 980.036 (6), 990.01 (23) and 995.50 (7); **to repeal and recreate**  
22 chapter 969 (title), chapter 970 (title), chapter 971 (title), 971.08 (1) (b), 971.09,  
23 972.04 (title) and chapter 975 (title); and **to create** 48.315 (4), 175.27 (title),  
24 175.60 (3) (dm), 175.60 (11) (a) 2. gm., 809.30 (2) (m), 904.045 (title), 938.18 (10),  
25 938.21 (2) (f), 967.025 (title), 967.025 (2), 967.025 (3), 967.025 (5), 967.025 (7),



**ASSEMBLY BILL 383**

1           967.025 (8), 967.025 (10), 967.025 (11), 967.025 (14), 967.025 (15), 967.025 (16),  
2           967.025 (17), 967.12 (3), 967.13 (1) (a) and (b), 967.13 (1) (i), 967.14 (1) (d),  
3           967.14 (2), 967.14 (4), 967.21 (2) (title), 967.21 (3) (title), 967.21 (4) (title),  
4           967.21 (5) (title), 967.21 (6) (title), 967.22 (title), subchapter I (title) of chapter  
5           968 [precedes 968.015], 968.025 (title), 968.025 (3), 968.025 (4) (title), 968.025  
6           (4) (e), 968.035 (title), subchapter II (title) of chapter 968 [precedes 968.105],  
7           subchapter III (title) of chapter 968 [precedes 968.155], subchapter IV (title) of  
8           chapter 968 [precedes 968.305], subchapter V (title) of chapter 968 [precedes  
9           968.455], subchapter VI (title) of chapter 968 [precedes 968.465], 968.465 (5)  
10          and (6), 968.475 (2) (a), 968.475 (2) (e), 968.475 (3), 968.485 (title) and (1),  
11          968.585 (2) (ag), 968.585 (4m), 968.585 (7) (cm), subchapter VII (title) of chapter  
12          968 [precedes 968.605], subchapter VIII (title) of chapter 968 [precedes  
13          968.705], 968.705 (1) and (3), 968.71, subchapter I (title) of chapter 969  
14          [precedes 969.15], 969.15, 969.19, 969.20 (2), 969.20 (6), 969.20 (7) (title),  
15          969.21 (title), 969.24 (2m), 969.25, 969.26 (title), 969.26 (3), subchapter II (title)  
16          of chapter 969 [precedes 969.30], 969.30 (3) to (7), 969.31 (3), 969.31 (4), 969.32,  
17          969.33 (title), 969.33 (2), 969.33 (3), 969.33 (4), 969.33 (5) to (7), 969.37, 969.38,  
18          969.41, 969.42, subchapter III (title) of chapter 969 [precedes 969.50], 969.50  
19          (2) and (3), subchapter I (title) of chapter 970 [precedes 970.06], 970.06 (2),  
20          970.06 (3), 970.06 (4), 970.08 (2), 970.09 (2), 970.10 (title), (1) and (3), 970.13 (3),  
21          970.14 (13), 970.15, subchapter II (title) of chapter 970 [precedes s. 970.21,  
22          subchapter I (title) of chapter 971 [precedes 971.013], 971.015 (title), 971.015  
23          (1) (title), 971.015 (1) (b), 971.015 (2), 971.015 (4), 971.027 (intro.), 971.027 (2)  
24          and (4), 971.027 (6) (title) and (7) (title), 971.035, 971.038, subchapter II (title)  
25          of chapter 971 [precedes 971.06], 971.06 (1) (title), 971.06 (4), 971.065, 971.08

**ASSEMBLY BILL 383**

1 (1) (ag), 971.08 (1) (am), 971.085 (title) and (1) (intro.), 971.085 (1) (b), 971.085  
2 (2), 971.093, subchapter III (title) of chapter 971 [precedes 971.098], 971.098,  
3 971.10 (1) (title), 971.10 (1) (b), 971.10 (2r), 971.10 (3) (title), subchapter IV  
4 (title) of chapter 971 [precedes 971.42], 971.42, 971.43 (title) and (1), 971.43 (2)  
5 (b), 971.43 (2) (br), 971.43 (2) (e), 971.43 (2) (f), 971.43 (2) (h), 971.43 (3), 971.43  
6 (4), 971.43 (6), 971.43 (7), 971.43 (8), 971.44 (title) and (1), 971.44 (2) (a), 971.44  
7 (3), 971.46 (intro.) and (1), 971.48 (title), 971.48 (2), 971.49, 971.51 (title) and  
8 (1), 971.52 (3), 971.56, 971.57, 971.58 (title), subchapter V (title) of chapter 971  
9 [precedes 971.65], 971.65 (title), 971.65 (2), 971.66, 971.68 (title), (1) and (3),  
10 971.69, subchapter VI (title) of chapter 971 [precedes 971.75], 971.75 (title),  
11 971.75 (2), 971.75 (4), 971.75 (6) (title) and (a), 971.75 (7) (title), 971.75 (9)  
12 (title), 971.76, 971.77 (title), 972.005 (title), 972.005 (2), 972.025 (title) and (1),  
13 972.04 (3), 972.075, 972.16 (1) and (2), 972.18 (title), 972.19, 972.20 (title),  
14 972.22 (title), 972.23 (title), 972.23 (2), 972.24, 972.25, 972.26, 972.28 (title),  
15 974.08 (title), 974.08 (1), 974.08 (2) and (3), 974.09 (title), subchapter I (title)  
16 of chapter 975 [precedes 975.20], 975.20, subchapter II (title) of chapter 975  
17 [precedes 975.30], 975.31 (title), 975.31 (2), 975.32 (title), 975.32 (2), 975.32 (4),  
18 975.32 (7), 975.32 (10), 975.33 (title), 975.33 (1) (f), 975.34, 975.36 (title), 975.36  
19 (2), 975.36 (4), 975.37, 975.38 (title), 975.39, subchapter III (title) of chapter 975  
20 [precedes 975.50], 975.51 (4) (b), 975.51 (5) (b), 975.52 (1), 975.52 (4) (title),  
21 975.53 (title), 975.54 (title), 975.56 (title), 975.57 (2) (e), 975.57 (3), 975.57 (4)  
22 (title), 975.57 (4) (b) and (c), 975.57 (5) (title), 975.59 (5) (title), 975.59 (5) (b) and  
23 (c), 975.61 (1) (d), 975.62 (title), 975.62 (1) (d), 975.62 (2), (3) and (4), 975.63 (3)

**ASSEMBLY BILL 383**

1           and 977.072 (title) of the statutes; **relating to:** criminal procedure and  
2           providing penalties.

---

***Analysis by the Legislative Reference Bureau***

This bill reorganizes each chapter of the criminal procedure code, with the exception of chapter 973, Sentencing. This analysis is organized in the ascending order of the chapters, as reorganized in the bill. This bill creates subchapters in long chapters, separates long statutes into shorter statutes, reorganizes individual statutes, and provides titles for some provisions. This bill also creates new authority for courts and codifies some current practices.

Under this bill, chapter 967 contains definitions of terms used throughout the criminal procedure code and general provisions that, under current law, appear throughout the criminal procedure code. The bill also adds definitions for “complaint,” “district attorney,” “felony,” “misdemeanor,” “motion,” and “sentencing.”

This bill moves to chapter 968 all current law provisions relating to investigative procedures such as inquests, John Doe proceedings, grand juries, wiretapping, and search and seizure provisions.

This bill creates a process that requires a court, upon the request of a district attorney and a showing that the information requested is relevant to a criminal investigation, to order a financial institution to disclose to the district attorney whether the person named in the order has or had an account at the financial institution.

Under this bill, chapter 969 contains provisions addressing arrest and release, identifies ways to secure the appearance of a defendant, and includes provisions intended to expedite the processing of misdemeanors. Under current law, a citation issued by a law enforcement officer directs a person to appear in court and answer criminal charges. The citation may not be used as a criminal complaint. This bill allows a citation for a misdemeanor that is issued by a law enforcement officer to be used as a criminal complaint if the district attorney endorses it. The bill specifies the contents of the citation, such as the crime the person allegedly committed, the date of the commission, and the maximum penalty for the crime. The bill requires a law enforcement officer citing a person for a misdemeanor to release the person without a cash bond unless certain circumstances apply, including if the person does not give proper identification or appears to endanger a person or property.

Under current law, a law enforcement officer generally may release a person who is arrested without a warrant without requiring the person to appear before a judge if the law enforcement officer is satisfied that there are insufficient grounds for the issuance of a criminal complaint against the person. Under this bill, a law enforcement officer may release such a person without determining that there are insufficient grounds for the issuance of a criminal complaint.

Under current law, a person arrested for a criminal offense may be released under reasonable conditions that the court sets at an initial appearance. This bill provides that, with exceptions, a district attorney may release an arrested person

**ASSEMBLY BILL 383**

before the initial appearance if the person signs a bond. The district attorney may not impose monetary conditions of release but may impose other conditions, including requiring the person to report any address change or to appear at specified times and places for investigative purposes or restricting the person from contacting a specified person or from possessing a dangerous weapon. The district attorney, when determining whether to release on bond, may consider all of the following: if the defendant has provided proper identification, if the defendant is willing to comply with the conditions of the bond, if the defendant appears to pose a danger to a person or property, if the defendant can show sufficient ties to the community, if the defendant has previously failed to appear in response to a citation, subpoena, summons, or order of court, and if further detention appears necessary for investigative activities.

If the court orders release, this bill requires the court to release the defendant to return on a specific date without conditions; on a personal recognizance bond; on an unsecured appearance bond; or on a secured appearance bond. This bill also allows a third party who has deposited cash for the release of a defendant on a secured appearance bond to apply to the court for an order to return the deposit before the entry of a judgment of conviction or forfeiture. The court then may determine whether to remit the deposit and whether to modify the conditions of release.

This bill requires a court, except in extraordinary circumstances, to release a person who is arrested without a warrant within 48 hours of the arrest unless the court has determined there is probable cause that the person committed an offense.

Under this bill, chapter 970 contains provisions relating to the commencement of prosecutions. Under current law, a defendant in a felony case is entitled to a preliminary examination, at which the court determines whether there is probable cause to believe that the defendant committed a felony. This bill eliminates the preliminary examination.

This bill replaces several statutes governing deferred prosecution agreements in specific cases with a single, general statute defining and authorizing deferred and suspended prosecution agreements. The bill provides that the same standards that govern a district attorney's charging authority also govern the district attorney's authority to enter into a deferred prosecution agreement and that the same standards that apply to a court's authority to schedule cases and grant continuances apply to a court's authority to suspend prosecution under a suspended prosecution agreement. Under this bill, both a deferred prosecution agreement and a suspended prosecution agreement are enforceable in the same manner as a plea agreement. The bill further notes that consenting to a deferred prosecution or suspended prosecution agreement is not an admission of guilt nor is it admissible in a trial relating to the charge to which the agreement pertains. This bill makes generally applicable a provision in current law that grants immunity from civil liability in excess of \$25,000 for acts or omissions by an organization or individual for whom an agreement assigns an individual to work.

Under this bill, chapter 971 addresses pretrial procedures and contains subchapters for commencement of proceedings, pleas, and provisions to expedite

**ASSEMBLY BILL 383**

proceedings, discovery, motions, and juveniles in adult court. This bill creates a single, general statute for plea agreements. The bill provides that the district attorney and the defendant, without the court's participation, may reach a plea agreement. The agreement may require the district attorney, if the defendant enters a plea of guilty or no contest, to take certain actions, including moving to dismiss or amend any charge; recommending the defendant's request for a particular disposition; or agreeing that a specific disposition is appropriate. The bill also creates a single statute to clarify, and explain the consequences of, the different pleas available to the defendant.

Under current law, before a criminal court dismisses a case against a person, the court must inquire if the district attorney has offered all of the victims an opportunity to confer with the district attorney concerning the prosecution and outcome of the case. This bill codifies case law by adding that, if the district attorney moves to dismiss a complaint, the trial court must grant the motion unless the court finds that dismissal is contrary to the public interest or, if the motion is made during the trial, unless the defendant has not consented. If the court grants the motion, the action is dismissed and the clerk must enter an order to that effect.

The bill requires the court to grant a motion, made before sentencing, to withdraw a plea of guilty or no contest if a fair and just reason for doing so is established and requires the court to grant such a motion, made after sentencing, if the defendant did not knowingly, voluntarily, and understandingly enter the plea or if withdrawal is required to prevent a manifest injustice. Finally, the bill specifies that a withdrawal of a plea of guilty or no contest vacates the judgment, reinstates any original charge, and restores the parties to the position they were in before the plea was accepted.

Under this bill, the purpose of discovery is defined as to promote fair and expeditious disposition of criminal charges, to provide the defendant with sufficient information to make an informed plea, to permit thorough preparation for and minimize surprise at trial, to reduce interruptions and complications during trial and avoid unnecessary trials by resolving any issues before trial, to minimize inequities among similarly situated defendants, to effect economies, and to minimize the burden upon victims and witnesses.

Current law requires a district attorney, upon demand and within a reasonable time before trial, to disclose to the defendant any reports or statements of experts made in connection with the case or, if an expert does not prepare a report or statement, a written summary of the expert's findings or the subject of his or her testimony, and the results of any examination, scientific test, experiment, or comparison that the district attorney intends to offer in evidence. This bill requires any party who intends to call an expert witness to, not less than 15 days before trial, notify the party of the expert's name, address, and qualifications and furnish any reports or statements of experts made in connection with the case or, if none, a written summary of the expert's findings or the subject matter of his or her testimony, and the results of any mental examination, scientific test, experiment, or comparison that the party intends to offer in evidence.

**ASSEMBLY BILL 383**

Under this bill, before trial and upon motion by either party, the court may issue a subpoena to require the production of documents and other tangible objects if the evidence may be material to the determination of issues. The motion and the subpoena must specify who must produce the material, whether certified copies of documents may be submitted in lieu of appearance, and other conditions.

Under this bill, the disclosure of discoverable material may be accomplished in any manner mutually agreeable to the parties. If the parties do not agree, the party that has the duty to disclose must either provide a copy of the material to be disclosed or notify the other party that the material may be inspected, copied, or photographed during specified reasonable times and provide suitable machinery for making copies.

Under current law, courts use their authority to manage litigation to specify times for discovery, pretrial motions, notices of intent to offer an alibi or another defense, pretrial conferences, trials, and other proceedings. This bill codifies this specific authority to issue and amend scheduling orders.

Under this bill, the court may, upon motion by the district attorney, order a defendant to participate in a procedure to obtain nontestimonial evidence if the procedure is reasonable. Such procedures include appearing, moving, or speaking for identification in a lineup; trying on clothing and other articles; providing handwriting and voice exemplars; being photographed; having fingerprints or other body impressions taken; providing samples of blood, urine, saliva, semen, skin, breath, hair, or nails or materials under the nails; submitting to body measurements and other reasonable body surface examinations; and submitting to physical and medical inspection.

Under this bill, the court may, upon motion of a defendant, issue a subpoena requiring an individual to participate in a procedure to obtain nontestimonial evidence if an affidavit or testimony shows probable cause to believe that the individual to be subpoenaed committed the crime with which the defendant is charged and that the evidence sought is necessary to an adequate defense and cannot practicably be obtained from other sources.

Under this bill, the district attorney may provide discovery before the initial appearance. At the initial appearance this bill requires the district attorney to disclose, after the defendant has obtained or waived legal representation, any pertinent law enforcement investigative reports the district attorney has and a copy of the defendant's criminal record.

Under current law, the procedure for asserting that a statute is unconstitutional is located in the civil procedure statutes. This bill adds a procedure to the criminal procedure code that provides that, if a defendant moves to dismiss a criminal prosecution by asserting that the statute under which he or she is charged is unconstitutional, the defendant must serve the motion on the attorney general and the district attorney.

This bill specifies that, if a defendant moves for severance because a codefendant's out-of-court statement refers to, but is not admissible against, the defendant and the court determines that the state intends to offer the statement in evidence, the court must require the district attorney to elect one of the following: 1) a joint trial at which the statement is not received in evidence; 2) a joint trial at

**ASSEMBLY BILL 383**

which the statement is received in evidence only after all references to the defendant have been deleted, if admission of the statement with the deletions made will not cause prejudice; 3) a separate trial for the defendant; or 4) if the court approves, a single trial with a separate jury for the defendant and the codefendant.

This bill permits a defendant to move for a pretrial dismissal of the complaint. The motion must state the grounds and specify the following: 1) any elements or required facts that the defendant believes the state cannot prove because there is no genuine issue as to any material fact; 2) any evidence, or absence of evidence, that the defendant believes is uncontroverted and that establishes the grounds stated in the motion, and 3) any applicable included crime that the defendant believes the state cannot prove at trial because there is no genuine issue as to any material fact. If the grounds, if true, would justify granting the dismissal motion and the allegations in the complaint do not demonstrate that there is a genuine issue of material fact as to those grounds, the district attorney may file a written response to establish the elements or other facts that the state is required to prove at trial. The court may request that the district attorney and defense counsel present arguments and may allow testimony to resolve the questions whether a genuine issue of material fact exists. Unless the court denies the motion because the grounds, if true, would not justify granting the motion or because the allegations demonstrate a genuine issue of material fact, the court must rule on the motion based on the complaint, the material submitted by the defendant in support of the motion, and material, testimony, or argument presented. If the court concludes, for the reasons specified in the motion, that there is no genuine issue as to any material fact, the court must either grant the motion or allow the district attorney to amend the complaint.

Under this bill, chapter 972 contains statutes relating to criminal trials. Under this bill, if the court authorizes the jurors to ask questions of witnesses, the court must instruct the jury to ask only questions that clarify information already presented and must instruct the jury of the procedure to be used. The procedure provides that the juror must submit the question in writing to the judge who will show the question to the parties. The parties may object to the question without the jury knowing. If the judge, upon reviewing the question and any objections, determines that the question is legally proper, the judge may ask it of the witness.

Under current law, if the number of jurors, including any additional jurors selected, remains more than required at final submission of the cause, the court must determine by lot which jurors will not participate in deliberations and discharge them. Under this bill, the court may, for good cause, discharge additional jurors other than by lot. Moreover, this bill allows the court to determine which jurors will not participate in deliberations but retain those jurors as alternates after the jury retires to deliberate. If an alternate replaces a juror after deliberations have begun, the court must instruct the jury to begin its deliberations anew.

This bill defines "stipulation" as an agreement between the parties that a specified fact is taken as established without need for proof. Further, a stipulation must be set forth on the record when the court accepts it, and, in a jury trial, the court must instruct the jury to take stipulated facts as conclusively proved.

**ASSEMBLY BILL 383**

Finally, this bill specifies that a verdict must be unanimous and returned in open court. Under current case law, a defendant in a criminal case has the right to poll the jury, and refusal to permit the defendant to do so is an error for which the verdict will be set aside. This bill requires a court to ask each juror individually whether the verdict as returned was and is the juror's verdict. This bill requires the court to accept the verdict if it is in proper form and confirmed by the poll.

Under this bill, chapter 975 addresses mental health issues affecting a criminal prosecution such as competency to stand trial and mental responsibility, commonly known as the "insanity defense." Under current law, when there is reason to doubt a defendant's competency to proceed in a criminal action, the court must appoint an examiner to submit to the court a report upon the condition of the defendant that contains specified findings. This bill adds that, if the examiner reports that the defendant is not competent to proceed and that the defendant is not likely to become competent within the maximum period of commitment under the competency statutes, the examiner must provide his or her opinion on whether the defendant meets the criteria for civil commitment.

The bill reorganizes the competency hearing statutes and makes certain changes to burdens of persuasion. Under current law, at the outset of the competency hearing, if the defendant claims to be incompetent or is silent, the defendant must be found incompetent unless the state proves by the greater weight of the credible evidence that the defendant is competent. Under current law, if the defendant claims to be competent, the defendant must be found competent unless the state proves by clear and convincing evidence that the defendant is incompetent. Under the bill, the state has the burden of going forward with evidence at a competency hearing, and the court may find the defendant competent to proceed only if the court finds by the greater weight of the evidence that the defendant is competent to proceed. The bill specifies the following: 1) if the defendant is not competent and the court finds by the greater weight of the evidence that the defendant is not likely to become competent within the maximum period of commitment, the court must order the defendant be released or delivered to a facility; 2) if the defendant is not competent and the court finds by the greater weight of the evidence that the defendant is likely to become competent within the maximum period of commitment without inpatient treatment, the court must order that the defendant be released and may require the defendant to participate in outpatient treatment, or undergo periodic reexaminations to determine whether the defendant has become competent to proceed, for a period that does not exceed the maximum period of commitment; or 3) if the defendant is not competent and the court finds by clear and convincing evidence that the defendant is likely to become competent within the maximum period of commitment if provided appropriate inpatient treatment, the court must commit the defendant to the custody of the Department of Health Services (DHS) for treatment. Finally, if the defendant is committed to the department and the court finds by clear and convincing evidence that the defendant is not competent to refuse medication or treatment, the court must find that the defendant is not competent to refuse medication or treatment and must order whoever administers medication or treatment to the defendant to observe appropriate medical standards.



**ASSEMBLY BILL 383**

Under current law, if the defendant is committed to the custody of DHS for treatment following a competency proceeding, the days spent in commitment are given credit toward the service of his or her sentence for the same course of conduct. This bill requires the court to include in the commitment order a specific finding of the number of days spent in precommitment custody.

Current law requires DHS to periodically reexamine the defendant and to submit to the court a written report on the defendant's mental condition at three months, six months, and nine months after commitment. This bill requires an additional report if DHS determines that the defendant has become competent or that the defendant is not likely to become competent within the remaining commitment period and requires the court to schedule a review of this additional report within 14 days.

This bill creates a process for the court to follow whenever the court determines there is reason to doubt a defendant's ability, with a reasonable degree of rational understanding, to assist counsel or make decisions when seeking an appeal or a motion for postconviction relief. Pending the determination or after a finding of incompetency, the circuit court may allow proceedings on any issue raised by the defendant's attorney that rests on the records, does not require the defendant to assist counsel or make a decision, and involves no risk to the defendant and the court of appeals may grant the defendant a continuance or lengthen the time for filing necessary notices or motions for postconviction relief. If the court finds that the defendant lacks competency, the court may appoint a guardian to make decisions or order treatment to restore the defendant to competency to pursue postconviction relief. Finally, the bill provides that a defendant who lacks competency to pursue postconviction relief may, after regaining competency, raise any issue at a later proceeding that he or she did not raise earlier because of incompetency.

Under current law, if a defendant is found not guilty by reason of mental disease or defect, the court must enter a judgment of not guilty by reason of mental disease or defect and proceed to commitment. The judgment is interlocutory to the commitment order and reviewable upon appeal. Under this bill, the court must proceed to a dispositional hearing and the commitment order is the final order and is appealable as a matter of right. Upon appeal, this bill provides that all properly preserved issues, including those relating to the guilt phase of the trial, may be raised.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 1           **SECTION 1.** 6.10 (7m) (a) (intro.) of the statutes is amended to read:
- 2           6.10 (**7m**) (a) (intro.) The residence of a person who is detained, or committed
- 3           and institutionalized, under s. 51.20, ~~971.14, or 971.17~~ or ch. 975 or 980 shall be

**ASSEMBLY BILL 383**

1 determined by applying the standards under sub. (1) to whichever of the following  
2 dates is applicable to the circumstances of the person:

3 **SECTION 2.** 6.10 (7m) (a) 2. of the statutes is amended to read:

4 6.10 **(7m)** (a) 2. For a person committed under s. ~~971.14~~ or ~~971.17~~ ch. 975, the  
5 date of the offense or alleged offense that resulted in the person's commitment.

6 **SECTION 3.** 13.35 (2) of the statutes is amended to read:

7 13.35 **(2)** The immunity provided under sub. (1) is subject to the restrictions  
8 under s. ~~972.085~~ 967.18.

9 **SECTION 4.** 16.84 (2) of the statutes is amended to read:

10 16.84 **(2)** Appoint such number of police officers as is necessary to safeguard  
11 all public property placed by law in the department's charge, and provide, by  
12 agreement with any other state agency, police and security services at buildings and  
13 facilities owned, controlled, or occupied by the other state agency. The governor or  
14 the department may, to the extent it is necessary, authorize police officers employed  
15 by the department to safeguard state officers, state employees, or other persons. A  
16 police officer who is employed by the department and who is performing duties that  
17 are within the scope of his or her employment as a police officer has the powers of a  
18 peace officer under s. 59.28, except that the officer has the arrest powers of a law  
19 enforcement officer under s. ~~968.07~~ 969.16 regardless of whether the violation is  
20 punishable by forfeiture or criminal penalty. The officer may exercise the powers of  
21 a peace officer and the arrest powers of a law enforcement officer while located  
22 anywhere within this state. Nothing in this subsection limits or impairs the duty of  
23 the chief and each police officer of the police force of the municipality in which the  
24 property is located to arrest and take before the proper court or magistrate persons  
25 found in a state of intoxication or engaged in any disturbance of the peace or violating

**ASSEMBLY BILL 383**

1 any state law in the municipality in which the property is located, as required by s.  
2 62.09 (13).

3 **SECTION 5.** 17.16 (7) (b) of the statutes is amended to read:

4 17.16 (7) (b) The immunity provided under par. (a) is subject to the restrictions  
5 under s. ~~972.085~~ 967.18.

6 **SECTION 6.** 19.32 (1b) of the statutes is amended to read:

7 19.32 (1b) "Committed person" means a person who is committed under ch.  
8 975, 2011 stats., or ch. 51, 971, 975, or 980 and who is placed in an inpatient  
9 treatment facility, during the period that the person's placement in the inpatient  
10 treatment facility continues.

11 **SECTION 7.** 20.435 (2) (bj) of the statutes is amended to read:

12 20.435 (2) (bj) *Competency examinations and treatment, and conditional*  
13 *release, supervised release, and community supervision services.* Biennially, the  
14 amounts in the schedule for outpatient competency examinations and treatment  
15 services; and for payment by the department of costs for treatment and services for  
16 persons released under s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats., or s.  
17 971.17 (3) (d) or (4) (e) 975.57, 975.59, or 980.08 (4) (g) or for persons who are inmates  
18 of the department of corrections who are released on community supervision, for  
19 which the department has contracted with county departments under s. 51.42 (3)  
20 (aw) 1. d., with other public agencies, or with private agencies to provide the  
21 treatment and services.

22 **SECTION 8.** 20.435 (2) (gk) of the statutes is amended to read:

23 20.435 (2) (gk) *Institutional operations and charges.* The amounts in the  
24 schedule for care, other than under s. 51.06 (1r), provided by the centers for the  
25 developmentally disabled, to reimburse the cost of providing the services and to

**ASSEMBLY BILL 383**

1 remit any credit balances to county departments that occur on and after  
2 July 1, 1978, in accordance with s. 51.437 (4rm) (c); for care, other than under s.  
3 46.043, provided by the mental health institutes, to reimburse the cost of providing  
4 the services and to remit any credit balances to county departments that occur on and  
5 after January 1, 1979, in accordance with s. 51.42 (3) (as) 2.; for maintenance of  
6 state-owned housing at centers for the developmentally disabled and mental health  
7 institutes; for repair or replacement of property damaged at the mental health  
8 institutes or at centers for the developmentally disabled; and for reimbursing the  
9 total cost of using, producing, and providing services, products, and care. All moneys  
10 received as payments from medical assistance on and after August 1, 1978; as  
11 payments from all other sources including other payments under s. 46.10 and  
12 payments under s. 51.437 (4rm) (c) received on and after July 1, 1978; as medical  
13 assistance payments, other payments under s. 46.10, and payments under s. 51.42  
14 (3) (as) 2. received on and after January 1, 1979; as payments for the rental of  
15 state-owned housing and other institutional facilities at centers for the  
16 developmentally disabled and mental health institutes; for the sale of electricity,  
17 steam, or chilled water; as payments in restitution of property damaged at the  
18 mental health institutes or at centers for the developmentally disabled; for the sale  
19 of surplus property, including vehicles, at the mental health institutes or at centers  
20 for the developmentally disabled; and for other services, products, and care shall be  
21 credited to this appropriation, except that any payment under s. 46.10 received for  
22 the care or treatment of patients admitted under s. 51.10, 51.15, or 51.20 for which  
23 the state is liable under s. 51.05 (3), of forensic patients committed under ch. 971 975,  
24 2011 stats., or ch. 975, admitted under ch. 975, 2011 stats., or transferred under s.  
25 51.35 (3), or of patients transferred from a state prison under s. 51.37 (5), to the

**ASSEMBLY BILL 383**

1 Mendota Mental Health Institute or the Winnebago Mental Health Institute shall  
2 be treated as general purpose revenue — earned, as defined under s. 20.001 (4); and  
3 except that moneys received under s. 51.06 (6) may be expended only as provided in  
4 s. 13.101 (17).

5 **SECTION 9.** 20.550 (1) (f) of the statutes is amended to read:

6 20.550 (1) (f) *Transcripts, discovery, and interpreters.* The amounts in the  
7 schedule for the costs of interpreters and discovery materials and for the  
8 compensation of court reporters or clerks of circuit court for preliminary  
9 examination, trial, and appeal transcripts, and the payment of related costs under  
10 s. ~~967.06 (3)~~ 977.072.

11 **SECTION 10.** 23.33 (4c) (b) 3. of the statutes is amended to read:

12 23.33 (4c) (b) 3. ‘Related charges.’ A person may be charged with and a  
13 prosecutor may proceed upon a complaint based upon a violation of any combination  
14 of subd. 1., 2., or 2m. for acts arising out of the same incident or occurrence. If the  
15 person is charged with violating any combination of subd. 1., 2., or 2m. in the  
16 complaint, the crimes shall be joined under s. ~~971.12~~ 970.13. If the person is found  
17 guilty of any combination of subd. 1., 2., or 2m. for acts arising out of the same  
18 incident or occurrence, there shall be a single conviction for purposes of sentencing  
19 and for purposes of counting convictions under sub. (13) (b) 2. and 3. Subdivisions  
20 1., 2., and 2m. each require proof of a fact for conviction which the others do not  
21 require.

22 **SECTION 11.** 23.56 (1) of the statutes is amended to read:

23 23.56 (1) A person may be arrested for a violation of those statutes enumerated  
24 in s. 23.50 (1), any administrative rules promulgated thereunder, any rule of the  
25 Kickapoo reserve management board under s. 41.41 (7) (k), or any local ordinances

**ASSEMBLY BILL 383**

1 enacted by any local authority in accordance with s. 23.33 (11) (am) or 30.77, after  
2 a warrant that substantially complies with s. ~~968.04~~ 969.20 has been issued. Except  
3 as provided in sub. (2), the person arrested shall be brought without unreasonable  
4 delay before a court having jurisdiction to try the action.

5 **SECTION 12.** 23.65 (2) of the statutes is amended to read:

6 23.65 (2) The complaint shall be prepared in the form specified in s. 23.55.  
7 After a complaint is prepared, it shall be filed with the judge and a summons shall  
8 be issued or the complaint shall be dismissed pursuant to s. ~~968.03~~ 969.20. Such  
9 filing commences the action.

10 **SECTION 13.** 29.921 (6) of the statutes is amended to read:

11 29.921 (6) SEARCH WARRANTS; SUBPOENAS. In executing search warrants and  
12 subpoenas under this chapter where the penalty for the violation is a forfeiture, the  
13 department shall use procedures which comply with ss. ~~968.12~~ 968.465, 968.485,  
14 968.495, 968.506, 968.605, 968.615, and ~~968.135 to 968.19~~ 968.705.

15 **SECTION 14.** 29.938 (2) of the statutes is amended to read:

16 29.938 (2) Property turned over to the department under s. ~~968.20 (3)~~ 175.27  
17 (1).

18 **SECTION 15.** 29.972 (1) (a) of the statutes is amended to read:

19 29.972 (1) (a) Fails to respond to a summons under s. 23.66 (3) or 23.67 (4), or  
20 a warrant or summons under s. ~~968.04~~ 969.20.

21 **SECTION 16.** 29.972 (1) (c) of the statutes is amended to read:

22 29.972 (1) (c) Fails to appear before the court and is subject to a bench warrant  
23 under s. ~~968.09~~ 969.50.

24 **SECTION 17.** 29.974 (1) of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           29.974 (1) If a person is convicted of any violation of this chapter, of s. 167.31  
2           (2) or (3) or of a rule promulgated under s. 167.31 (4m), and it is alleged in the  
3           indictment, ~~information~~ or complaint, and proved or admitted on trial or ascertained  
4           by the court after conviction that the person was previously convicted within a period  
5           of 5 years for a violation of this chapter, of s. 167.31 (2) or (3) or of a rule promulgated  
6           under s. 167.31 (4m) by any court of this state, the person shall be fined not more than  
7           \$100, or imprisoned not more than 6 months or both. In addition, all hunting, fishing  
8           and trapping approvals issued to the person shall be revoked and no hunting, fishing  
9           or trapping approval may be issued to the person for a period of one year after the  
10          2nd conviction.

11           **SECTION 18.** 29.974 (2) (b) of the statutes is amended to read:

12           29.974 (2) (b) When any person is convicted and it is alleged in the indictment,  
13          ~~information~~ or complaint and proved or admitted on trial or ascertained by the court  
14          after conviction that the person had been before convicted 3 times within a period of  
15          3 years for violations of this chapter or department order punishable under s. 29.501  
16          (10), 29.601 (1) or 29.971 (5), or for violation of s. 29.539, or for violation of any statute  
17          or department order regulating the taking or possession of any wild animal or  
18          carcass during the closed season or any combination of those violations by any court  
19          of this state, and that the convictions remain of record and unreversed, the person  
20          shall be fined not more than \$2,000 or imprisoned for not more than 9 months or both.

21           **SECTION 19.** 30.681 (2) (c) of the statutes is amended to read:

22           30.681 (2) (c) *Related charges.* A person may be charged with and a prosecutor  
23          may proceed upon a complaint based upon a violation of any combination of par. (a)  
24          or (b) 1., 1m., or 2. for acts arising out of the same incident or occurrence. If the person  
25          is charged with violating any combination of par. (a) or (b) 1., 1m., or 2. in the

**ASSEMBLY BILL 383**

1 complaint, the crimes shall be joined under s. ~~971.12~~ 970.13. If the person is found  
2 guilty of any combination of par. (a) or (b) 1., 1m., or 2. for acts arising out of the same  
3 incident or occurrence, there shall be a single conviction for purposes of sentencing  
4 and for purposes of counting convictions under s. 30.80 (6) (a) 2. and 3. Paragraphs  
5 (a) and (b) 1., 1m., and 2. each require proof of a fact for conviction which the others  
6 do not require.

7 **SECTION 20.** 46.10 (2) of the statutes is amended to read:

8 46.10 (2) Except as provided in subs. (2m) and (14) (b) and (c), any person,  
9 including but not limited to a person admitted, committed, protected, or placed under  
10 s. 975.01, 1977 stats., s. 975.02, 1977 stats., s. 975.17, 1977 stats., s. 55.05 (5), 2003  
11 stats., and s. 55.06, 2003 stats., and ss. ~~or s. 975.06, 2011 stats., or s. 51.10, 51.13,~~  
12 51.15, 51.20, 51.35 (3), 51.37 (5), 51.45 (10), (11), (12) and (13), 55.05, 55.055, 55.12,  
13 55.13, 55.135, ~~971.14 (2) and (5), 971.17 (1), 975.06 and or 980.06, or ch. 975,~~  
14 receiving care, maintenance, services and supplies provided by any institution in  
15 this state including University of Wisconsin Hospitals and Clinics, in which the state  
16 is chargeable with all or part of the person's care, maintenance, services and  
17 supplies, any person receiving care and services from a county department  
18 established under s. 51.42 or 51.437 or from a facility established under s. 49.73, and  
19 any person receiving treatment and services from a public or private agency under  
20 s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats., or s. ~~971.17 (3) (d) or (4) (e)~~  
21 975.57 (4), 975.59, or 980.08 (4) (g) and the person's property and estate, including  
22 the homestead, and the spouse of the person, and the spouse's property and estate,  
23 including the homestead, and, in the case of a minor child, the parents of the person,  
24 and their property and estates, including their homestead, and, in the case of a  
25 foreign child described in s. 48.839 (1) who became dependent on public funds for his



**ASSEMBLY BILL 383**

1 or her primary support before an order granting his or her adoption, the resident of  
2 this state appointed guardian of the child by a foreign court who brought the child  
3 into this state for the purpose of adoption, and his or her property and estate,  
4 including his or her homestead, shall be liable for the cost of the care, maintenance,  
5 services and supplies in accordance with the fee schedule established by the  
6 department under s. 46.03 (18). If a spouse, widow or minor, or an incapacitated  
7 person may be lawfully dependent upon the property for their support, the court  
8 shall release all or such part of the property and estate from the charges that may  
9 be necessary to provide for those persons. The department shall make every  
10 reasonable effort to notify the liable persons as soon as possible after the beginning  
11 of the maintenance, but the notice or the receipt thereof is not a condition of liability.

12 **SECTION 21.** 46.90 (6) (bt) 8. of the statutes is amended to read:

13 46.90 (6) (bt) 8. To the attorney or guardian ad litem for the elder adult at risk  
14 who is the alleged victim named in the record, to assist in preparing for any  
15 proceeding under ch. 975, 2011 stats., or ch. 48, 51, 54, 55, 813, ~~971~~, or 975 pertaining  
16 to the alleged victim.

17 **SECTION 22.** 48.31 (2) of the statutes is amended to read:

18 48.31 (2) The hearing shall be to the court unless the child, the child's parent,  
19 guardian, or legal custodian, the unborn child by the unborn child's guardian ad  
20 litem, or the expectant mother of the unborn child exercises the right to a jury trial  
21 by demanding a jury trial at any time before or during the plea hearing. If a jury trial  
22 is demanded in a proceeding under s. 48.13 or 48.133, the jury shall consist of 6  
23 persons. If a jury trial is demanded in a proceeding under s. 48.42, the jury shall  
24 consist of 12 persons unless the parties agree to a lesser number. Chapters 756 and  
25 805 shall govern the selection of jurors. If the hearing involves a child victim or

**ASSEMBLY BILL 383**

1 witness, as defined in s. 950.02, the court may order that a deposition be taken by  
2 audiovisual means and allow the use of a recorded deposition under s. ~~967.04 (7) to~~  
3 ~~(10) and, with the district attorney, shall comply with s. 971.105~~ 967.22. At the  
4 conclusion of the hearing, the court or jury shall make a determination of the facts,  
5 except that in a case alleging a child or an unborn child to be in need of protection  
6 or services under s. 48.13 or 48.133, the court shall make the determination under  
7 s. 48.13 (intro.) or 48.133 relating to whether the child or unborn child is in need of  
8 protection or services that can be ordered by the court. If the court finds that the child  
9 or unborn child is not within the jurisdiction of the court or, in a case alleging a child  
10 or an unborn child to be in need of protection or services under s. 48.13 or 48.133, that  
11 the child or unborn child is not in need of protection or services that can be ordered  
12 by the court or if the court or jury finds that the facts alleged in the petition have not  
13 been proved, the court shall dismiss the petition with prejudice.

14 **SECTION 23.** 48.315 (4) of the statutes is created to read:

15 48.315 (4) The court and the representative of the public under s. 48.09 shall  
16 take appropriate action to ensure a speedy fact-finding and dispositional hearing in  
17 order to minimize the time during which any victim of the abuse or neglect addressed  
18 at the hearing or any witness, as defined in s. 950.02 (5), who is a child must endure  
19 the stress of his or her involvement in the proceeding. In ruling on any motion or  
20 other request for any continuance or delay of the proceedings, the court shall consider  
21 and give weight to any adverse impact the delay or continuance may have on the  
22 well-being of the victim or any child witness.

23 **SECTION 24.** 48.366 (1) (b) of the statutes is amended to read:

24 48.366 (1) (b) Subject to par. (c), if the person committed a crime specified in  
25 s. 940.20 (1) or 946.43 while placed in a juvenile correctional facility and is adjudged

**ASSEMBLY BILL 383**

1 delinquent on that basis following transfer of jurisdiction under s. ~~970.032~~ 971.75 (5),  
2 the court shall enter an order extending its jurisdiction until the person reaches 21  
3 years of age or until termination of the order under sub. (6), whichever occurs earlier.

4 **SECTION 25.** 48.396 (2) (dr) of the statutes is amended to read:

5 48.396 (2) (dr) Upon request of the department of corrections or any other  
6 person preparing a presentence investigation under s. ~~972.15~~ 973.004 to review court  
7 records for the purpose of preparing the presentence investigation, the court shall  
8 open for inspection by any authorized representative of the requester the records of  
9 the court relating to any child who has been the subject of a proceeding under this  
10 chapter.

11 **SECTION 26.** 48.78 (2) (d) 1. of the statutes is amended to read:

12 48.78 (2) (d) 1. The subject of a presentence investigation under s. ~~972.15~~  
13 973.004.

14 **SECTION 27.** 48.981 (1) (b) of the statutes is amended to read:

15 48.981 (1) (b) "Community placement" means probation; extended supervision;  
16 parole; aftercare; conditional transfer into the community under s. 51.35 (1);  
17 conditional transfer or discharge under s. 51.37 (9); placement in a Type 2 residential  
18 care center for children and youth or a Type 2 juvenile correctional facility  
19 authorized under s. 938.539 (5); conditional release under s. ~~971.17~~ 975.57 or 975.59;  
20 supervised release under s. 980.06 or 980.08; participation in the community  
21 residential confinement program under s. 301.046, the intensive sanctions program  
22 under s. 301.048, the corrective sanctions program under s. 938.533, the intensive  
23 supervision program under s. 938.534, or the serious juvenile offender program  
24 under s. 938.538; or any other placement of an adult or juvenile offender in the  
25 community under the custody or supervision of the department of corrections, the

**ASSEMBLY BILL 383**

1 department of health services, a county department under s. 46.215, 46.22, 46.23,  
2 51.42, or 51.437 or any other person under contract with the department of  
3 corrections, the department of health services or a county department under s.  
4 46.215, 46.22, 46.23, 51.42, or 51.437 to exercise custody or supervision over the  
5 offender.

6 **SECTION 28.** 48.981 (7) (a) 14m. of the statutes is amended to read:

7 48.981 (7) (a) 14m. A judge conducting proceedings under s. ~~968.26~~ 968.105.

8 **SECTION 29.** 49.138 (1m) (c) of the statutes is amended to read:

9 49.138 (1m) (c) A member of the family was a victim of domestic abuse, as  
10 defined in s. ~~968.075~~ 969.27 (1) (a).

11 **SECTION 30.** 49.19 (4) (d) 3. of the statutes is amended to read:

12 49.19 (4) (d) 3. Is the wife of a husband who has been committed to the  
13 department pursuant to ch. 975, 2011 stats., irrespective of the probable period of  
14 such commitment; or

15 **SECTION 31.** 49.95 (8) of the statutes is amended to read:

16 49.95 (8) Any person who makes any statement in a written application for aid  
17 under this chapter shall be considered to have made an admission as to the existence,  
18 correctness or validity of any fact stated, which shall be taken as prima facie evidence  
19 against the party making it in any complaint, ~~information~~ or indictment, and in any  
20 action or proceeding brought for the enforcement of any provision of this chapter.

21 **SECTION 32.** 51.05 (2) of the statutes is amended to read:

22 51.05 (2) ADMISSIONS AUTHORIZED BY COUNTIES. The department may not accept  
23 for admission to a mental health institute any resident person, except in an  
24 emergency, unless the county department under s. 51.42 in the county where the  
25 person has residence authorizes the care under s. 51.42 (3) (as). Patients who are

**ASSEMBLY BILL 383**

1 committed to the department under s. 975.01, 1977 stats., or s. 975.02, 1977 stats.,  
2 or s. 975.06, 2011 stats., or s. 971.14, 971.17, 975.06, or 980.06, or ch. 975, admitted  
3 by the department under s. 975.17, 1977 stats., or are transferred from a juvenile  
4 correctional facility or a secured residential care center for children and youth to a  
5 state treatment facility under s. 51.35 (3) or from a jail or prison to a state treatment  
6 facility under s. 51.37 (5) are not subject to this section.

7 **SECTION 33.** 51.20 (1) (am) of the statutes is amended to read:

8 51.20 (1) (am) If the individual has been the subject of inpatient treatment for  
9 mental illness, developmental disability, or drug dependency immediately prior to  
10 commencement of the proceedings as a result of a voluntary admission, a  
11 commitment or protective placement ordered by a court under this section ~~or~~, s.  
12 55.06, 2003 stats., ~~s. 971.17~~ ch. 975, 2011 stats., or ch. 975, or a protective placement  
13 or protective services ordered under s. 55.12, or if the individual has been the subject  
14 of outpatient treatment for mental illness, developmental disability, or drug  
15 dependency immediately prior to commencement of the proceedings as a result of a  
16 commitment ordered by a court under this section, ~~s. 971.17~~ ch. 975, 2011 stats., or  
17 ch. 975, the requirements of a recent overt act, attempt or threat to act under par.  
18 (a) 2. a. or b., pattern of recent acts or omissions under par. (a) 2. c. or e., or recent  
19 behavior under par. (a) 2. d. may be satisfied by a showing that there is a substantial  
20 likelihood, based on the subject individual's treatment record, that the individual  
21 would be a proper subject for commitment if treatment were withdrawn. If the  
22 individual has been admitted voluntarily to an inpatient treatment facility for not  
23 more than 30 days prior to the commencement of the proceedings and remains under  
24 voluntary admission at the time of commencement, the requirements of a specific  
25 recent overt act, attempt or threat to act, or pattern of recent acts or omissions may

**ASSEMBLY BILL 383**

1 be satisfied by a showing of an act, attempt or threat to act, or pattern of acts or  
2 omissions which took place immediately previous to the voluntary admission. If the  
3 individual is committed under s. ~~971.14 (2) or (5)~~ 975.32 or 975.34 at the time  
4 proceedings are commenced, or has been discharged from the commitment  
5 immediately prior to the commencement of proceedings, acts, attempts, threats,  
6 omissions, or behavior of the subject individual during or subsequent to the time of  
7 the offense shall be deemed recent for purposes of par. (a) 2.

8 **SECTION 34.** 51.20 (16) (j) of the statutes is amended to read:

9 51.20 (16) (j) This subsection applies to petitions for reexamination that are  
10 filed under ch. ~~971, but not s. 971.17, and ch. 975, 2011 stats., and subch. II of ch. 975,~~  
11 except that the petitions shall be filed with the committing court.

12 **SECTION 35.** 51.30 (3) (b) of the statutes is amended to read:

13 51.30 (3) (b) An individual's attorney or guardian ad litem and the corporation  
14 counsel shall have access to the files and records of the court proceedings under this  
15 chapter without the individual's consent and without modification of the records in  
16 order to prepare for involuntary commitment or recommitment proceedings,  
17 reexaminations, appeals, or other actions relating to detention, admission, or  
18 commitment under this chapter, ch. 975, 2011 stats., or ch. ~~971, 975,~~ or 980.

19 **SECTION 36.** 51.30 (4) (b) 8m. of the statutes is amended to read:

20 51.30 (4) (b) 8m. To appropriate examiners and facilities in accordance with s.  
21 ~~54.36 (3), 971.17 (2) (e), (4) (e), and (7) (e)~~ 975.56 (2), 975.59 (3), or 975.63 (4). The  
22 recipient of any information from the records shall keep the information confidential  
23 except as necessary to comply with s. ~~971.17 subch. III of ch. 975.~~

24 **SECTION 37.** 51.30 (4) (b) 9. of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           51.30 (4) (b) 9. To a facility which is to receive an individual who is involuntarily  
2 committed under this chapter, ch. 975, 2011 stats., or ch. 48, 938, 971, or 975 upon  
3 transfer of the individual from one treatment facility to another. Release of records  
4 under this subdivision shall be limited to such treatment records as are required by  
5 law, a record or summary of all somatic treatments, and a discharge summary. The  
6 discharge summary may include a statement of the patient's problem, the treatment  
7 goals, the type of treatment which has been provided, and recommendation for future  
8 treatment, but it may not include the patient's complete treatment record. The  
9 department shall promulgate rules to implement this subdivision.

10           **SECTION 38.** 51.30 (4) (b) 11. of the statutes is amended to read:

11           51.30 (4) (b) 11. To the subject individual's counsel or guardian ad litem and  
12 the corporation counsel, without modification, at any time in order to prepare for  
13 involuntary commitment or recommitment proceedings, reexaminations, appeals, or  
14 other actions relating to detention, admission, commitment, or patients' rights under  
15 this chapter, ch. 975, 2011 stats., or ch. 48, 971, 975, or 980.

16           **SECTION 39.** 51.30 (4) (b) 12m. of the statutes is amended to read:

17           51.30 (4) (b) 12m. To any person if the patient was admitted under s. ~~971.14,~~  
18 ~~971.17 or 980.06,~~ ch. 975, 2011 stats., or ch. 975 or transferred under s. 51.35 (3) or  
19 51.37 and is on unauthorized absence from a treatment facility. Information released  
20 under this subdivision is limited to information that would assist in the  
21 apprehension of the patient.

22           **SECTION 40.** 51.30 (4) (b) 16. of the statutes is amended to read:

23           51.30 (4) (b) 16. If authorized by the secretary or his or her designee, to a law  
24 enforcement agency upon request if the individual was admitted under ~~ch. 971~~ 975,  
25 2011 stats., or ch. 975 or transferred under s. 51.35 (3) or 51.37. Information released

**ASSEMBLY BILL 383**

1 under this subdivision is limited to the individual's name and other identifying  
2 information, including photographs and fingerprints, the branch of the court that  
3 committed the individual, the crime that the individual is charged with, found not  
4 guilty of by reason of mental disease or defect or convicted of, whether or not the  
5 individual is or has been authorized to leave the grounds of the institution and  
6 information as to the individual's whereabouts during any time period. In this  
7 subdivision "law enforcement agency" has the meaning provided in s. 165.83 (1) (b).

8 **SECTION 41.** 51.30 (7) of the statutes is amended to read:

9 51.30 (7) CRIMINAL COMMITMENTS. Except as otherwise specifically provided,  
10 this section applies to the treatment records of persons who are committed under ~~chs.~~  
11 ~~971 and ch. 975, 2011 stats., or ch. 975.~~

12 **SECTION 42.** 51.37 (1) of the statutes is amended to read:

13 51.37 (1) All commitments under s. 975.01, 1977 stats., and s. 975.02, 1977  
14 stats., and under ~~ss. 971.14 (5), 971.17 s. 975.06, 2011 stats., and 975.06 ss. 975.34,~~  
15 ~~975.55, and 975.57~~ shall be to the department.

16 **SECTION 43.** 51.37 (3) of the statutes is amended to read:

17 51.37 (3) The Mendota and Winnebago mental health institutes may be used  
18 for the custody, care and treatment of persons committed or transferred thereto  
19 pursuant to this section ~~and chs. 971 and, ch. 975, 2011 stats., or ch. 975.~~

20 **SECTION 44.** 51.37 (4) of the statutes is amended to read:

21 51.37 (4) The department may, with the approval of the committing court and  
22 the county department under s. 51.42 or 51.437, and subject to s. 51.35, transfer to  
23 the care and custody of a county department under s. 51.42 or 51.437 any person in  
24 an institution of the department committed under ~~s. 971.14 or 971.17 ch. 975,~~ if in  
25 its opinion, the mental condition of the person is such that further care is required



**ASSEMBLY BILL 383**

1 and can be properly provided under the direction of the county department under s.  
2 51.42 or 51.437.

3 **SECTION 45.** 51.37 (9) of the statutes is amended to read:

4 51.37 (9) If in the judgment of the director of Mendota Mental Health Institute,  
5 Winnebago Mental Health Institute or the Milwaukee County Mental Health  
6 Complex, any person who is committed under s. ~~971.14 or 971.17~~ ch. 975 is not in  
7 such condition as warrants his or her return to the court but is in a condition to  
8 receive a conditional transfer or discharge under supervision, the director shall  
9 report to the department of health services, the committing court and the district  
10 attorney of the county in which the court is located his or her reasons for the  
11 judgment. If the court does not file objection to the conditional transfer or discharge  
12 within 60 days of the date of the report, the director may, with the approval of the  
13 department of health services, conditionally transfer any person to a legal guardian  
14 or other person, subject to the rules of the department of health services. Before a  
15 person is conditionally transferred or discharged under supervision under this  
16 subsection, the department of health services shall so notify the municipal police  
17 department and county sheriff for the area where the person will be residing. The  
18 notification requirement does not apply if a municipal department or county sheriff  
19 submits to the department of health services a written statement waiving the right  
20 to be notified. The department of health services may contract with the department  
21 of corrections for the supervision of persons who are transferred or discharged under  
22 this subsection.

23 **SECTION 46.** 51.37 (10) (am) of the statutes is amended to read:

24 51.37 (10) (am) The director of a state treatment facility may grant to any  
25 patient admitted to the facility as a result of a commitment under ch. ~~971~~ 975, 2011

**ASSEMBLY BILL 383**

1 stats., or ch. 975, a home visit for up to 15 days, or a leave for employment or  
2 education purposes in which the patient is not absent from the facility for more than  
3 15 days.

4 **SECTION 47.** 51.375 (1) (a) of the statutes is amended to read:

5 51.375 (1) (a) "Community placement" means conditional transfer into the  
6 community under s. 51.35 (1), conditional release under s. ~~971.17~~ 975.57 or 975.59,  
7 parole from a commitment for specialized treatment under ch. 975, 2011 stats., or  
8 supervised release under ch. 980.

9 **SECTION 48.** 51.39 of the statutes is amended to read:

10 **51.39 Resident patients on unauthorized absence.** If any patient who is  
11 admitted, transferred, or placed under s. 55.06, 2003 stats., ~~or s. 51.13, 51.15, 51.20,~~  
12 ~~51.35 (3), 51.37, or 51.45 (11) (b), (12) or (13),~~ ch. 975, 2011 stats., or ch. 55, ~~971,~~ 975,  
13 or 980 is on unauthorized absence from a treatment facility, the sheriff or any other  
14 law enforcement agency in the county in which the patient is found or in which it is  
15 believed the patient may be present, upon the request of the director, shall take  
16 charge of and return the patient to the facility. The costs incident to the return shall  
17 be paid out of the facility's operating funds and be charged back to the patient's  
18 county of residence.

19 **SECTION 49.** 51.42 (3) (as) 1m. of the statutes is amended to read:

20 51.42 (3) (as) 1m. A county department shall reimburse a mental health  
21 institute at the institute's daily rate for custody of any person who is ordered by a  
22 court located in that county to be examined at the mental health institute under s.  
23 ~~971.14 (2)~~ 975.32 for all days that the person remains in custody at the mental health  
24 institute, beginning 48 hours, not including Saturdays, Sundays, and legal holidays,

**ASSEMBLY BILL 383**

1 after the sheriff and county department receive notice under s. ~~971.14 (2) (d)~~ 975.32  
2 (5) that the examination has been completed.

3 **SECTION 50.** 51.42 (3) (as) 1r. of the statutes is amended to read:

4 51.42 (3) (as) 1r. A county department shall authorize all care of any patient  
5 in a state, local, or private facility under a contractual agreement between the county  
6 department and the facility, unless the county department governs the facility. The  
7 need for inpatient care shall be determined by the program director or designee in  
8 consultation with and upon the recommendation of a licensed physician trained in  
9 psychiatry and employed by the county department or its contract agency. In cases  
10 of emergency, a facility under contract with any county department shall charge the  
11 county department having jurisdiction in the county where the patient is found. The  
12 county department shall reimburse the facility for the actual cost of all authorized  
13 care and services less applicable collections under s. 46.036, unless the department  
14 of health services determines that a charge is administratively infeasible, or unless  
15 the department of health services, after individual review, determines that the  
16 charge is not attributable to the cost of basic care and services. Except as provided  
17 in subd. 1m., a county department may not reimburse any state institution or receive  
18 credit for collections for care received in a state institution by nonresidents of this  
19 state, interstate compact clients, transfers under s. 51.35 (3), transfers from  
20 Wisconsin state prisons under s. 51.37 (5) (a), commitments under s. 975.01, 1977  
21 stats., or s. 975.02, 1977 stats., or s. 975.06, 2011 stats., or s. 971.14, 971.17 or 975.06  
22 ch. 975 or admissions under s. 975.17, 1977 stats., or children placed in the  
23 guardianship of the department of children and families under s. 48.427 or 48.43 or  
24 under the supervision of the department of corrections under s. 938.183 or 938.355.

**ASSEMBLY BILL 383**

1 The exclusionary provisions of s. 46.03 (18) do not apply to direct and indirect costs  
2 that are attributable to care and treatment of the client.

3 **SECTION 51.** 51.42 (3) (aw) 1. d. of the statutes is amended to read:

4 51.42 (3) (aw) 1. d. Provide treatment and services that are specified in a  
5 conditional release plan approved by a court for a person who is a county resident and  
6 is conditionally released under s. ~~971.17 (3) or (4)~~ 975.57 (4) or 975.59 or that are  
7 specified in a supervised release plan approved by a court under s. 980.06 (2) (c), 1997  
8 stats., s. 980.08 (5), 2003 stats., or s. 980.08 (4) (g). If the county department provides  
9 treatment and services under this subdivision, the department of health services  
10 shall, from the appropriation under s. 20.435 (2) (bj), pay the county department for  
11 the costs of the treatment and services.

12 **SECTION 52.** 51.437 (4rm) (a) of the statutes is amended to read:

13 51.437 (4rm) (a) A county department of developmental disabilities services  
14 shall authorize all care of any patient in a state, local, or private facility under a  
15 contractual agreement between the county department of developmental disabilities  
16 services and the facility, unless the county department of developmental disabilities  
17 services governs the facility. The need for inpatient care shall be determined by the  
18 program director or designee in consultation with and upon the recommendation of  
19 a licensed physician trained in psychiatry and employed by the county department  
20 of developmental disabilities services or its contract agency prior to the admission  
21 of a patient to the facility except in the case of emergency services. In cases of  
22 emergency, a facility under contract with any county department of developmental  
23 disabilities services shall charge the county department of developmental  
24 disabilities services having jurisdiction in the county where the individual receiving  
25 care is found. The county department of developmental disabilities services shall

**ASSEMBLY BILL 383**

1 reimburse the facility, except as provided under par. (c), for the actual cost of all  
2 authorized care and services less applicable collections under s. 46.036, unless the  
3 department of health services determines that a charge is administratively  
4 infeasible, or unless the department of health services, after individual review,  
5 determines that the charge is not attributable to the cost of basic care and services.  
6 The exclusionary provisions of s. 46.03 (18) do not apply to direct and indirect costs  
7 which are attributable to care and treatment of the client. County departments of  
8 developmental disabilities services may not reimburse any state institution or  
9 receive credit for collections for care received in a state institution by nonresidents  
10 of this state, interstate compact clients, transfers under s. 51.35 (3) (a), commitments  
11 under s. 975.01, 1977 stats., or s. 975.02, 1977 stats., or s. ~~971.14, 971.17 or~~ 975.06,  
12 2011 stats., or ch. 975, admissions under s. 975.17, 1977 stats., children placed in the  
13 guardianship of the department of children and families under s. 48.427 or 48.43 or  
14 juveniles under the supervision of the department of corrections under s. 938.183 or  
15 938.355.

16 **SECTION 53.** 51.61 (1) (intro.) of the statutes is amended to read:

17 51.61 (1) (intro.) In this section, “patient” means any individual who is  
18 receiving services for mental illness, developmental disabilities, alcoholism or drug  
19 dependency, including any individual who is admitted to a treatment facility in  
20 accordance with this chapter or ch. 48 or 55 or who is detained, committed or placed  
21 under this chapter, ch. 975, 2011 stats., or ch. 48, 55, ~~971, 975,~~ or 980, or who is  
22 transferred to a treatment facility under s. 51.35 (3) or 51.37 or who is receiving care  
23 or treatment for those conditions through the department or a county department  
24 under s. 51.42 or 51.437 or in a private treatment facility. “Patient” does not include  
25 persons committed under ch. 975, 2011 stats., who are transferred to or residing in

**ASSEMBLY BILL 383**

1 any state prison listed under s. 302.01. In private hospitals and in public general  
2 hospitals, "patient" includes any individual who is admitted for the primary purpose  
3 of treatment of mental illness, developmental disability, alcoholism or drug abuse  
4 but does not include an individual who receives treatment in a hospital emergency  
5 room nor an individual who receives treatment on an outpatient basis at those  
6 hospitals, unless the individual is otherwise covered under this subsection. Except  
7 as provided in sub. (2), each patient shall:

8 **SECTION 54.** 51.61 (1) (e) of the statutes is amended to read:

9 51.61 (1) (e) Except in the case of a patient who is admitted or transferred under  
10 s. 51.35 (3) or 51.37, ch. 975, 2011 stats., or ~~under ch. 971 or 975~~, have the right to  
11 the least restrictive conditions necessary to achieve the purposes of admission,  
12 commitment or protective placement, under programs, services and resources that  
13 the county board of supervisors is reasonably able to provide within the limits of  
14 available state and federal funds and of county funds required to be appropriated to  
15 match state funds.

16 **SECTION 55.** 51.61 (1) (i) 1. of the statutes is amended to read:

17 51.61 (1) (i) 1. Except as provided in subd. 2., have a right to be free from  
18 physical restraint and isolation except for emergency situations or when isolation or  
19 restraint is a part of a treatment program. Isolation or restraint may be used only  
20 when less restrictive measures are ineffective or not feasible and shall be used for  
21 the shortest time possible. When a patient is placed in isolation or restraint, his or  
22 her status shall be reviewed once every 30 minutes. Each facility shall have a written  
23 policy covering the use of restraint or isolation that ensures that the dignity of the  
24 individual is protected, that the safety of the individual is ensured, and that there  
25 is regular, frequent monitoring by trained staff to care for bodily needs as may be

**ASSEMBLY BILL 383**

1 required. Isolation or restraint may be used for emergency situations only when it  
2 is likely that the patient may physically harm himself or herself or others. The  
3 treatment director shall specifically designate physicians who are authorized to  
4 order isolation or restraint, and shall specifically designate licensed psychologists  
5 who are authorized to order isolation. If the treatment director is not a physician,  
6 the medical director shall make the designation. In the case of a center for the  
7 developmentally disabled, use shall be authorized by the director of the center. The  
8 authorization for emergency use of isolation or restraint shall be in writing, except  
9 that isolation or restraint may be authorized in emergencies for not more than one  
10 hour, after which time an appropriate order in writing shall be obtained from the  
11 physician or licensed psychologist designated by the director, in the case of isolation,  
12 or the physician so designated in the case of restraint. Emergency isolation or  
13 restraint may not be continued for more than 24 hours without a new written order.  
14 Isolation may be used as part of a treatment program if it is part of a written  
15 treatment plan, and the rights specified in this subsection are provided to the  
16 patient. The use of isolation as a part of a treatment plan shall be explained to the  
17 patient and to his or her guardian, if any, by the person who provides the treatment.  
18 A treatment plan that incorporates isolation shall be evaluated at least once every  
19 2 weeks. Patients who have a recent history of physical aggression may be restrained  
20 during transport to or from the facility. Persons who are committed or transferred  
21 under s. 51.35 (3) or 51.37, under ch. 975, 2011 stats., or under ch. ~~971~~ 975, or who  
22 are detained or committed under ch. 980, and who, while under this status, are  
23 transferred to a hospital, as defined in s. 50.33 (2), for medical care may be isolated  
24 for security reasons within locked facilities in the hospital. Patients who are  
25 committed or transferred under ch. 975, 2011 stats., under s. 51.35 (3) or 51.37, or

**ASSEMBLY BILL 383**

1 under ch. ~~971~~ or 975, or who are detained or committed under ch. 980, may be  
2 restrained for security reasons during transport to or from the facility.

3 **SECTION 56.** 51.87 (3) of the statutes is amended to read:

4 51.87 (3) PURCHASE OF SERVICES. A county department under s. 46.23, 51.42,  
5 or 51.437 may contract as provided under this section with public or private agencies  
6 in states bordering on Wisconsin to secure services under this chapter for persons  
7 who receive services through the county department, except that services may not  
8 be secured for persons committed under s. ~~971.14 or 971.17~~ ch. 975. Section 46.036  
9 (1) to (6) applies to contracts entered into under this section by county departments  
10 under s. 46.23, 51.42, or 51.437.

11 **SECTION 57.** 55.043 (6) (bt) 8. of the statutes is amended to read:

12 55.043 (6) (bt) 8. To the attorney or guardian ad litem for the adult at risk who  
13 is the alleged victim named in the record, to assist in preparing for any proceeding  
14 under this chapter, ch. 975, 2011 stats., or ch. 48, 51, 54, 813, ~~971~~, or 975 pertaining  
15 to the alleged victim.

16 **SECTION 58.** 55.075 (intro.) of the statutes is amended to read:

17 **55.075 Protective services or protective placement; petition.** (intro.)

18 Except as provided in s. ~~971.14 (6) (b)~~ 975.38:

19 **SECTION 59.** 59.34 (2) (a) of the statutes is amended to read:

20 59.34 (2) (a) Notwithstanding s. ~~979.04~~ 968.015 (3) and except as provided in  
21 par. (b), any person holding office under sub. (1) may also serve as an emergency  
22 medical technician, first responder or fire fighter.

23 **SECTION 60.** 59.40 (2) (c) of the statutes is amended to read:

24 59.40 (2) (c) Keep a criminal record and write in that record a history in every  
25 criminal action like the court record in civil actions and proceedings with references



**ASSEMBLY BILL 383**

1 to the file where papers in the action can be found, to the minute record and to the  
2 information complaint record where indictments and informations complaints can  
3 be found.

4 **SECTION 61.** 66.0113 (3) (e) of the statutes is amended to read:

5 66.0113 (3) (e) A judgment may be entered under par. (d) if the summons or  
6 citation was served as provided under s. ~~968.04 (3) (b) 2.~~ 969.22 (2) or by personal  
7 service by a county, town, city, village, town sanitary district or public inland lake  
8 protection and rehabilitation district employee.

9 **SECTION 62.** 66.0114 (1) (a) of the statutes is amended to read:

10 66.0114 (1) (a) An action for violation of an ordinance or bylaw enacted by a city,  
11 village, town sanitary district or public inland lake protection and rehabilitation  
12 district is a civil action. All forfeitures and penalties imposed by an ordinance or  
13 bylaw of the city, village, town sanitary district or public inland lake protection and  
14 rehabilitation district, except as provided in ss. 345.20 to 345.53, may be collected in  
15 an action in the name of the city or village before the municipal court or in an action  
16 in the name of the city, village, town sanitary district or public inland lake protection  
17 and rehabilitation district before a court of record. If the action is in municipal court,  
18 the procedures under ch. 800 apply and the procedures under this section do not  
19 apply. If the action is in a court of record, it shall be commenced by warrant or  
20 summons under s. ~~968.04~~ 969.20 or, if applicable, by citation under s. 778.25 or  
21 778.26. A law enforcement officer may arrest the offender in all cases without  
22 warrant under s. ~~968.07~~ 969.16. If the action is commenced by warrant the affidavit  
23 may be the complaint. The affidavit or complaint is sufficient if it alleges that the  
24 defendant has violated an ordinance or bylaw, specifying the ordinance or bylaw by  
25 section, chapter, title or otherwise with sufficient plainness to identify the ordinance

**ASSEMBLY BILL 383**

1 or bylaw. The judge may release a defendant without a cash deposit or may permit  
2 him or her to execute an unsecured appearance bond upon arrest. In arrests without  
3 a warrant or summons a statement on the records of the court of the offense charged  
4 is the complaint unless the court directs that a formal complaint be issued. In all  
5 actions under this paragraph the defendant's plea shall be guilty, not guilty or no  
6 contest and shall be entered as not guilty on failure to plead. A plea of not guilty on  
7 failure to plead puts all matters in the case at issue, any other provision of law  
8 notwithstanding. The defendant may enter a not guilty plea by certified mail.

9 **SECTION 63.** 66.0139 (4) and (5) of the statutes are amended to read:

10 66.0139 (4) Except as provided in s. ~~968.20 (3)~~ 175.27 (1), a 1st class city shall  
11 dispose of abandoned or unclaimed dangerous weapons or ammunition without a  
12 public auction 12 months after taking possession of them if the owner has not  
13 requested their return. Disposal procedures shall be established by ordinance or  
14 resolution and may include provisions authorizing an attempt to return to the  
15 rightful owner any dangerous weapons or ammunition which appear to be stolen or  
16 are reported stolen. If enacted, a disposal procedure shall include a presumption that  
17 if the dangerous weapons or ammunition appear to be or are reported stolen an  
18 attempt will be made to return the dangerous weapons or ammunition to the rightful  
19 owner. The dangerous weapons or ammunition are subject to sub. (5).

20 (5) A political subdivision may retain or dispose of any abandoned, unclaimed,  
21 or seized dangerous weapon or ammunition only under s. ~~968.20~~ ss. 175.27 and  
22 968.625.

23 **SECTION 64.** 69.18 (2) (f) 3. of the statutes is amended to read:

24 69.18 (2) (f) 3. A person signing a medical certification under par. (b), (c), or (d)  
25 shall note on the certificate if the cause of death of the subject of the certificate is

**ASSEMBLY BILL 383**

1 unknown, or undetermined or if the determination of the cause of death is pending  
2 and shall submit to the state registrar within 30 days after the pronouncement of  
3 death an amendment to the medical certification which satisfies the requirements  
4 of subd. 1., except that such amendment may exclude information which is  
5 unavailable pending the determination of an inquest under s. ~~979.04~~ 968.015.

6 **SECTION 65.** 77.61 (12) (b) of the statutes is amended to read:

7 77.61 (12) (b) The immunity provided under par. (a) is subject to the  
8 restrictions under s. ~~972.085~~ 967.18.

9 **SECTION 66.** 93.17 (2) of the statutes is amended to read:

10 93.17 (2) The immunity provided under sub. (1) is subject to the restrictions  
11 under s. ~~972.085~~ 967.18.

12 **SECTION 67.** 102.13 (5) of the statutes is amended to read:

13 102.13 (5) The department may refuse to receive testimony as to conditions  
14 determined from an autopsy if it appears that the party offering the testimony had  
15 procured the autopsy and had failed to make reasonable effort to notify at least one  
16 party in adverse interest or the department at least 12 hours before the autopsy of  
17 the time and place it would be performed, or that the autopsy was performed by or  
18 at the direction of the coroner or medical examiner or at the direction of the district  
19 attorney for purposes not authorized by subch. I of ch. 968 or ch. 979. The  
20 department may withhold findings until an autopsy is held in accordance with its  
21 directions.

22 **SECTION 68.** 102.88 (1) and (2) of the statutes are amended to read:

23 102.88 (1) When a person is convicted of any violation of this chapter or of any  
24 department rule or order, and it is alleged in the indictment, ~~information~~ or  
25 complaint, and proved or admitted on trial or ascertained by the court after

**ASSEMBLY BILL 383**

1 conviction that the person was previously subjected to a fine or forfeiture within a  
2 period of 5 years under s. 102.85, the person may be fined not more than \$2,000 or  
3 imprisoned for not more than 90 days or both.

4 **(2)** When any person is convicted and it is alleged in the indictment,  
5 ~~information~~ or complaint and proved or admitted on trial or ascertained by the court  
6 after conviction that such person had been before subjected to a fine or forfeiture 3  
7 times within a period of 3 years under s. 102.85 and that those convictions remain  
8 of record and unreversed, the person may be fined not more than \$10,000 or  
9 imprisoned for not more than 9 months or both.

10 **SECTION 69.** 103.10 (1m) (b) 1. of the statutes is amended to read:

11 103.10 **(1m)** (b) 1. "Domestic abuse" has the meaning given in s. ~~968.075~~ 969.27

12 (1) (a).

13 **SECTION 70.** 110.001 (1m) of the statutes is amended to read:

14 110.001 **(1m)** "Law enforcement officer" has the meaning given in s. ~~967.02 (5)~~  
15 967.025 (13).

16 **SECTION 71.** 110.07 (2m) of the statutes is amended to read:

17 110.07 **(2m)** In addition to the primary powers granted by subs. (1) and (2), any  
18 officer of the state traffic patrol shall have the powers of a peace officer under s. 59.28,  
19 except that the officer shall have the arrest powers of a law enforcement officer under  
20 s. ~~968.07~~ 969.16, regardless of whether the violation is punishable by forfeiture or  
21 criminal penalty. A state traffic officer shall at all times be available as a witness for  
22 the state but may not conduct investigations for crimes under chs. 939 to 948 other  
23 than crimes relating to the use or operation of vehicles. The primary duty of a state  
24 traffic officer shall be the enforcement of chs. 340 to 351 or of any other law relating  
25 to the use or operation of vehicles upon the highway. No state traffic officer shall be

**ASSEMBLY BILL 383**

1 used in or take part in any dispute or controversy between employer or employee  
2 concerning wages, hours, labor or working conditions; nor shall any such officer be  
3 required to serve civil process. The department may assign state traffic officers to  
4 safeguard state officers or other persons.

5 **SECTION 72.** 110.07 (4) of the statutes is amended to read:

6 110.07 (4) In addition to the primary powers granted by sub. (3), any inspector  
7 shall have the powers of a peace officer under s. 59.28, except that the inspector shall  
8 have the arrest powers of a law enforcement officer under s. ~~968.07~~ 969.16,  
9 regardless of whether the violation is punishable by forfeiture or criminal penalty.  
10 An inspector shall at all times be available as a witness for the state but may not  
11 conduct investigations for crimes under chs. 939 to 948 other than crimes relating  
12 to the use or operation of vehicles. The primary duty of an inspector shall be the  
13 enforcement of the provisions specified in sub. (3). No inspector may be used in or  
14 take part in any dispute or controversy between employer or employee concerning  
15 wages, hours, labor or working conditions; nor may an inspector be required to serve  
16 civil process. The department may assign inspectors to safeguard state officers or  
17 other persons.

18 **SECTION 73.** 111.07 (2) (b) 2. of the statutes is amended to read:

19 111.07 (2) (b) 2. The immunity provided under subd. 1. is subject to the  
20 restrictions under s. ~~972.085~~ 967.18.

21 **SECTION 74.** 125.14 (6) (a) of the statutes is amended to read:

22 125.14 (6) (a) *Form of complaint.* In a prosecution for a violation of a statute  
23 relating to the sale of alcohol beverages it is not necessary to allege in the complaint,  
24 ~~information~~ or indictment the kind or quantity of alcohol beverages sold or the  
25 person to whom it was sold. It is sufficient to allege generally that the defendant sold

**ASSEMBLY BILL 383**

1 alcohol beverages at a time and place mentioned, together with a brief statement of  
2 the facts showing that the sale was a violation of this chapter.

3 **SECTION 75.** 128.16 (2) of the statutes is amended to read:

4 128.16 (2) The immunity provided under sub. (1) is subject to the restrictions  
5 under s. ~~972.085~~ 967.18.

6 **SECTION 76.** 133.15 (2) of the statutes is amended to read:

7 133.15 (2) The immunity provided under sub. (1) is subject to the restrictions  
8 under s. ~~972.085~~ 967.18.

9 **SECTION 77.** 134.43 (3) of the statutes is amended to read:

10 134.43 (3) Any person who is the victim of an intrusion of privacy under this  
11 section is entitled to relief under s. 995.50 (1) and (4) unless the act is permissible  
12 under ~~ss. 968.27 to 968.37~~ subch. IV of ch. 968.

13 **SECTION 78.** 139.20 (2) of the statutes is amended to read:

14 139.20 (2) The immunity provided under sub. (1) is subject to the restrictions  
15 under s. ~~972.085~~ 967.18.

16 **SECTION 79.** 139.39 (5) (b) of the statutes is amended to read:

17 139.39 (5) (b) The immunity provided under par. (a) is subject to the restrictions  
18 under s. ~~972.085~~ 967.18.

19 **SECTION 80.** 146.81 (4) of the statutes is amended to read:

20 146.81 (4) "Patient health care records" means all records related to the health  
21 of a patient prepared by or under the supervision of a health care provider; and all  
22 records made by an ambulance service provider, as defined in s. 256.01 (3), an  
23 emergency medical technician, as defined in s. 256.01 (5), or a first responder, as  
24 defined in s. 256.01 (9), in administering emergency care procedures to and handling  
25 and transporting sick, disabled, or injured individuals. "Patient health care records"

**ASSEMBLY BILL 383**

1 includes billing statements and invoices for treatment or services provided by a  
2 health care provider and includes health summary forms prepared under s. 302.388  
3 (2). "Patient health care records" does not include those records subject to s. 51.30,  
4 reports collected under s. 69.186, records of tests administered under s. 252.15 (5g)  
5 or (5j), 343.305, 938.296 (4) or (5), or ~~968.38~~ 968.725 (4) or (5), records related to sales  
6 of pseudoephedrine products, as defined in s. 961.01 (20c), that are maintained by  
7 pharmacies under s. 961.235, fetal monitor tracings, as defined under s. 146.817 (1),  
8 or a pupil's physical health records maintained by a school under s. 118.125.

9 **SECTION 81.** 146.82 (2) (c) of the statutes is amended to read:

10 146.82 (2) (c) Notwithstanding sub. (1), patient health care records shall be  
11 released to appropriate examiners and facilities in accordance with s. ~~971.17 (2) (e),~~  
12 ~~(4) (e), and (7) (e)~~ 975.56 (2), 975.59 (3), and 975.63 (4). The recipient of any  
13 information from the records shall keep the information confidential except as  
14 necessary to comply with s. ~~971.17~~ subch. III of ch. 975.

15 **SECTION 82.** 154.30 (3) (a) 2. of the statutes is amended to read:

16 154.30 (3) (a) 2. Any power or duty of a coroner, medical examiner, or other  
17 physician licensed to perform autopsies with respect to the reporting of certain  
18 deaths, and the performance of autopsies, under ch. 979 and with respect to inquests  
19 under subch. I of ch. 979 ~~968~~.

20 **SECTION 83.** 165.76 (1) (b) of the statutes is amended to read:

21 165.76 (1) (b) Has been found not guilty or not responsible by reason of mental  
22 disease or defect on or after August 12, 1993, and committed under s. 51.20 or ~~971.17~~  
23 subch. III of ch. 975 for any violation of s. 940.225 (1) or (2), 948.02 (1) or (2), 948.025,  
24 or 948.085.

25 **SECTION 84.** 165.76 (1) (g) of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           165.76 (1) (g) Has been required by a court under s. 51.20 (13) (cr), 938.34  
2           ~~(15m), 971.17 (1m) (a) (15), 973.047, 975.54 (2),~~ or 980.063 to provide a biological  
3           specimen to the state crime laboratories for deoxyribonucleic acid analysis.

4           **SECTION 85.** 165.76 (1) (g) of the statutes, as affected by 2013 Wisconsin Acts  
5           20 and .... (this act), is amended to read:

6           165.76 (1) (g) Has been required by a court under s. 51.20 (13) (cr), 938.21 (1m),  
7           938.30 (2m), 938.34 (15), ~~970.02 (8)~~ 971.027 (7), 973.047, 975.54 (2), or 980.063 to  
8           provide a biological specimen to the state crime laboratories for deoxyribonucleic  
9           acid analysis.

10          **SECTION 86.** 165.76 (1m) of the statutes is amended to read:

11          165.76 (1m) If a person is required to provide a biological specimen under sub.  
12          (1) (a) to (g) and the department of justice does not have the data obtained from  
13          analysis of a biological specimen from the person that the department is required to  
14          maintain in the data bank under s. 165.77 (3), the department may require the  
15          person to provide a biological specimen, regardless of whether the person previously  
16          provided a biological specimen under this section or s. 51.20 (13) (cr), 938.34 (15),  
17          ~~971.17 (1m) (a), 973.047, 975.54 (2),~~ or 980.063. The department of justice, the  
18          department of corrections, a district attorney, or a county sheriff, shall notify any  
19          person whom the department of justice requires to provide a biological specimen  
20          under this subsection.

21          **SECTION 87.** 165.76 (1m) of the statutes, as affected by 2013 Wisconsin Acts 20  
22          and .... (this act), is amended to read:

23          165.76 (1m) If a person is required to provide a biological specimen under sub.  
24          (1) (a) to (gm) and the department of justice does not have the data obtained from  
25          analysis of a biological specimen from the person that the department is required to



**ASSEMBLY BILL 383**

1 maintain in the data bank under s. 165.77 (3), the department may require the  
2 person to provide a biological specimen, regardless of whether the person previously  
3 provided a biological specimen under this section or s. 51.20 (13) (cr), 165.84 (7),  
4 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8)~~ 971.027 (7), 973.047, 975.54 (2), or  
5 980.063. The department of justice, the department of corrections, a district  
6 attorney, or a county sheriff, shall notify any person whom the department of justice  
7 requires to provide a biological specimen under this subsection.

8 **SECTION 88.** 165.76 (2m) (g) of the statutes is amended to read:

9 165.76 (2m) (g) If the person has been committed to the department of health  
10 services under s. 51.20 or ~~971.17 subch. III of ch. 975~~ or found to be a sexually violent  
11 person under ch. 980, as directed by the department of health services.

12 **SECTION 89.** 165.76 (4) (a), (b) and (c) of the statutes, as created by 2013  
13 Wisconsin Act 20, are amended to read:

14 165.76 (4) (a) Establish procedures and time limits for obtaining and  
15 submitting biological specimens under this section and ss. 51.20 (13) (cr), 165.84 (7),  
16 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8), 971.17 (1m) (a)~~ 971.027 (7),  
17 973.047, 975.54 (2), and 980.063.

18 (b) Specify whether an individual who is required under this section or s. 51.20  
19 (13) (cr), 165.84 (7), 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8), 971.17 (1m) (a)~~  
20 971.027 (7), 973.047, 975.54 (2), or 980.063 to provide a biological specimen for  
21 deoxyribonucleic acid analysis must provide a new biological specimen if the crime  
22 laboratories already have a biological specimen from the individual or if data  
23 obtained from deoxyribonucleic acid analysis of the individual's biological specimen  
24 are already included in the data bank under s. 165.77 (3).

**ASSEMBLY BILL 383**

1 (c) Allow a biological specimen, or data obtained from analysis of a biological  
2 specimen, obtained under this section or s. 51.20 (13) (cr), 165.84 (7), 938.21 (1m),  
3 938.30 (2m), 938.34 (15), ~~970.02 (8), 971.17 (1m) (a)~~ 971.027 (7), 973.047, 975.54 (2),  
4 or 980.063 to be submitted for inclusion in an index established under 42 USC 14132  
5 (a) or in another national index system.

6 **SECTION 90.** 165.765 (1m) of the statutes, as created by 2013 Wisconsin Act 20,  
7 is amended to read:

8 165.765 (1m) A law enforcement officer; a jail officer; a tribal officer; a  
9 correctional officer; a probation, extended supervision, or parole officer; or an  
10 employee of the department of health services may use reasonable force to obtain a  
11 biological specimen from a person who intentionally refuses to provide a biological  
12 specimen that is required under s. 165.76 (1), 165.84 (7), 938.21 (1m), 938.30 (2m),  
13 938.34 (15), or ~~970.02 (8)~~ 971.027 (7).

14 **SECTION 91.** 165.765 (2) (a) 1. of the statutes, as affected by 2013 Wisconsin Act  
15 20, is amended to read:

16 165.765 (2) (a) 1. Any physician, registered nurse, medical technologist,  
17 physician assistant, or person acting under the direction of a physician who obtains  
18 a biological specimen under s. 51.20 (13) (cr), 165.76, 165.84 (7), 938.21 (1m), 938.30  
19 (2m), 938.34 (15), ~~970.02 (8), 971.17 (1m) (a)~~ 971.027 (7), 973.047, 975.54 (2), or  
20 980.063 is immune from any civil or criminal liability for the act, except for civil  
21 liability for negligence in the performance of the act.

22 **SECTION 92.** 165.77 (2) (b) of the statutes is amended to read:

23 165.77 (2) (b) Paragraph (a) does not apply to specimens received under s. 51.20  
24 (13) (cr), 165.76, 938.34 (15), ~~971.17 (1m) (a)~~, 973.047, 975.54 (2), or 980.063.

**ASSEMBLY BILL 383**

1           **SECTION 93.** 165.77 (2) (b) of the statutes, as affected by 2013 Wisconsin Acts  
2 20 and .... (this act), is amended to read:

3           165.77 **(2)** (b) Paragraph (a) does not apply to specimens received under s. 51.20  
4 (13) (cr), 165.76, 165.84 (7), 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8)~~ 971.027  
5 (7), 973.047, 975.54 (2), or 980.063.

6           **SECTION 94.** 165.77 (2m) (c) of the statutes is amended to read:

7           165.77 **(2m)** (c) Paragraph (b) does not apply to specimens received under s.  
8 51.20 (13) (cr), 165.76, 938.34 (15), ~~971.17 (1m) (a)~~, 973.047, 975.54 (2), or 980.063.

9           **SECTION 95.** 165.77 (2m) (c) of the statutes, as affected by 2013 Wisconsin Acts  
10 20 and .... (this act), is amended to read:

11           165.77 **(2m)** (c) Paragraph (b) does not apply to specimens received under s.  
12 51.20 (13) (cr), 165.76, 165.84 (7), 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8)~~  
13 971.027 (7), 973.047, 975.54 (2), or 980.063.

14           **SECTION 96.** 165.77 (3) of the statutes is amended to read:

15           165.77 **(3)** If the laboratories receive a human biological specimen under s.  
16 51.20 (13) (cr), 165.76, 938.34 (15), ~~971.17 (1m) (a)~~, 973.047, 975.54 (2), or 980.063,  
17 the laboratories shall analyze the deoxyribonucleic acid in the specimen. The  
18 laboratories shall maintain a data bank based on data obtained from  
19 deoxyribonucleic acid analysis of those specimens. The laboratories may compare  
20 the data obtained from one specimen with the data obtained from other specimens.  
21 The laboratories may make data obtained from any analysis and comparison  
22 available to law enforcement agencies in connection with criminal or delinquency  
23 investigations and, upon request, to any prosecutor, defense attorney or subject of  
24 the data. The data may be used in criminal and delinquency actions and proceedings.

**ASSEMBLY BILL 383**

1 The laboratories shall destroy specimens obtained under this subsection after  
2 analysis has been completed and the applicable court proceedings have concluded.

3 **SECTION 97.** 165.77 (3) of the statutes, as affected by 2013 Wisconsin Acts 20  
4 and ... (this act), is amended to read:

5 165.77 (3) If the laboratories receive a human biological specimen under s.  
6 51.20 (13) (cr), 165.76, 165.84 (7) (am), 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02~~  
7 ~~(8)~~ 971.027 (7), 973.047, 975.54 (2), or 980.063, the laboratories shall analyze the  
8 deoxyribonucleic acid in the specimen. The laboratories shall maintain a data bank  
9 based on data obtained from deoxyribonucleic acid analysis of those specimens. The  
10 laboratories may compare the data obtained from one specimen with the data  
11 obtained from other specimens. The laboratories may make data obtained from any  
12 analysis and comparison available to law enforcement agencies in connection with  
13 criminal or delinquency investigations and, upon request, to any prosecutor, defense  
14 attorney or subject of the data. The data may be used in criminal and delinquency  
15 actions and proceedings.

16 **SECTION 98.** 165.77 (4) (am) 1. of the statutes, as created by 2013 Wisconsin Act  
17 20, is amended to read:

18 165.77 (4) (am) 1. If the person was required to submit a biological specimen  
19 under s. 51.20 (13) (cr), 165.76, 938.34 (15), ~~971.17 (1m) (a)~~, 973.047, 975.54 (2), or  
20 980.063, all convictions, findings, or adjudications for which the person was required  
21 to submit a biological specimen under s. 51.20 (13) (cr), 165.76, 938.34 (15), ~~971.17~~  
22 ~~(1m) (a)~~, 973.047, 975.54 (2), or 980.063 have been reversed, set aside, or vacated.

23 **SECTION 99.** 165.77 (4) (am) 2. (intro.), a., b. and d. of the statutes, as created  
24 by 2013 Wisconsin Act 20, are amended to read:

**ASSEMBLY BILL 383**

1           165.77 (4) (am) 2. (intro.) If the person was required to provide a biological  
2 specimen under s. 165.84 (7) in connection with an arrest or under s. ~~970.02 (8)~~  
3 971.027 (7), one of the following applies:

4           a. All charges filed in connection with the arrest and all charges for which the  
5 person was required to provide a biological specimen under s. ~~970.02 (8)~~ 971.027 (7)  
6 have been dismissed.

7           b. The trial court reached final disposition for all charges in connection with  
8 the arrest and for any charges for which the person was required to provide a  
9 biological specimen under s. ~~970.02 (8)~~ 971.027 (7), and the person was not adjudged  
10 guilty of a crime in connection with the arrest or any charge for which the person was  
11 required to provide a biological specimen under s. ~~970.02 (8)~~ 971.027 (7).

12           d. The person was adjudged guilty of a crime in connection with either the  
13 arrest or any charge for which the person was required to provide a biological  
14 specimen under s. ~~970.02 (8)~~ 971.027 (7), and all such convictions have been  
15 reversed, set aside, or vacated.

16           **SECTION 100.** 165.79 (1) of the statutes is amended to read:

17           165.79 (1) Evidence, information, and analyses of evidence obtained from law  
18 enforcement officers by the laboratories is privileged and not available to persons  
19 other than law enforcement officers nor is the defendant entitled to an inspection of  
20 information and evidence submitted to the laboratories by the state or of a  
21 laboratory's findings, or to examine laboratory personnel as witnesses concerning  
22 the same, prior to trial, except to the extent that the same is used by the state at a  
23 preliminary hearing and except as provided in s. ~~971.23~~ subch. IV of ch. 971. Upon  
24 request of a defendant in a felony action, approved by the presiding judge, the  
25 laboratories shall conduct analyses of evidence on behalf of the defendant. No

**ASSEMBLY BILL 383**

1 prosecuting officer is entitled to an inspection of information and evidence submitted  
2 to the laboratories by the defendant, or of a laboratory's findings, or to examine  
3 laboratory personnel as witnesses concerning the same, prior to trial, except to the  
4 extent that the same is used by the accused at a preliminary hearing and except as  
5 provided in ~~s. 971.23~~ subch. IV of ch. 971. Employees who made examinations or  
6 analyses of evidence shall attend the criminal trial as witnesses, without subpoena,  
7 upon reasonable written notice from either party requesting the attendance.

8 **SECTION 101.** 165.81 (1) of the statutes is amended to read:

9 165.81 (1) Whenever the department is informed by the submitting officer or  
10 agency that physical evidence in the possession of the laboratories is no longer  
11 needed the department may, except as provided in sub. (3) or unless otherwise  
12 provided by law, destroy the evidence, retain it in the laboratories, return it to the  
13 submitting officer or agency, or turn it over to the University of Wisconsin upon the  
14 request of the head of any department of the University of Wisconsin. If the  
15 department returns the evidence to the submitting officer or agency, any action  
16 taken by the officer or agency with respect to the evidence shall be in accordance with  
17 ~~s. 968.20~~ ss. 175.27 and 968.625. Except as provided in sub. (3), whenever the  
18 department receives information from which it appears probable that the evidence  
19 is no longer needed, the department may give written notice to the submitting agency  
20 and the appropriate district attorney, by registered mail, of the intention to dispose  
21 of the evidence. If no objection is received within 20 days after the notice was mailed,  
22 it may dispose of the evidence.

23 **SECTION 102.** 165.81 (3) (a) 1. and 2., (b) and (f) of the statutes are amended  
24 to read:

25 165.81 (3) (a) 1. "Custody" has the meaning given in s. ~~968.205~~ 968.645 (1) (a).

**ASSEMBLY BILL 383**

1           2. “Discharge date” has the meaning given in s. ~~968.205~~ 968.645 (1) (b).

2           (b) Except as provided in par. (c), if physical evidence that is in the possession  
3 of the laboratories includes any biological material that was collected in connection  
4 with a criminal investigation that resulted in a criminal conviction, a delinquency  
5 adjudication, or commitment under s. ~~971.17 or 980.06~~ and the biological material  
6 is ~~from a victim of the offense that was the subject of the criminal investigation or~~  
7 ~~may reasonably be used to incriminate or exculpate any person for the offense or~~  
8 subch. III of ch. 975, the laboratories shall preserve the physical evidence until every  
9 person in custody as a result of the conviction, adjudication, or commitment has  
10 reached his or her discharge date.

11           (f) Unless otherwise provided in a court order issued under s. 974.07 (9) (a) or  
12 (b) or (10) (a) 5., nothing in this subsection prohibits the laboratories from returning  
13 evidence that must be preserved under par. (b) or (e) to the agency that submitted  
14 the evidence to the laboratories. If the laboratories return evidence that must be  
15 preserved under par. (b) or (e) to a submitting agency, any action taken by the agency  
16 with respect to the evidence shall be in accordance with s. ~~968.205~~ 968.645.

17           **SECTION 103.** 167.10 (8) (b) of the statutes is amended to read:

18           167.10 (8) (b) Fireworks stored, handled, sold, possessed, or used by a person  
19 who violates this section, an ordinance adopted under sub. (5), or a court order under  
20 par. (a) may be seized and held as evidence of the violation. Except as provided in  
21 s. ~~968.20 (4)~~ 175.27 (2), only the fireworks that are the subject of a violation of this  
22 section, an ordinance adopted under sub. (5), or a court order under par. (a) may be  
23 destroyed after conviction for a violation. Except as provided in s. ~~968.20 (4)~~ 175.27  
24 (2), fireworks that are seized as evidence of a violation for which no conviction results

**ASSEMBLY BILL 383**

1 shall be returned to the owner in the same condition as they were when seized to the  
2 extent practicable.

3 **SECTION 104.** 169.42 (2) (b) of the statutes is amended to read:

4 169.42 (2) (b) A conservation warden and the department shall comply with the  
5 applicable procedures under ss. 29.931, 29.934, and ~~968.20~~ 968.625 as they relate to  
6 seized and confiscated wild animals, carcasses, vehicles, boats, or other objects or  
7 property.

8 **SECTION 105.** 169.45 (5) (intro.) of the statutes is amended to read:

9 169.45 (5) PENALTIES; REPEATERS. (intro.) If a person is convicted of any  
10 violation of this chapter and it is alleged in the indictment, ~~information,~~ or  
11 complaint, and proved or admitted at trial or ascertained by the court after  
12 conviction that the person was previously convicted within a period of 5 years for a  
13 violation of this chapter, the person shall be subject to all of the following in addition  
14 to the penalty for the current violation:

15 **SECTION 106.** 173.10 of the statutes is amended to read:

16 **173.10 Investigation of cruelty complaints.** A person may apply for a  
17 search warrant under s. ~~968.12~~ 968.465 if there is reason to believe that a violation  
18 of ch. 951 has taken place or is taking place. If the court is satisfied that probable  
19 cause exists, it shall issue a search warrant directing a law enforcement officer in the  
20 county to proceed immediately to the location of the alleged violation with a doctor  
21 of veterinary medicine, if the court determines that a veterinarian is necessary for  
22 purposes of the search, and directing the law enforcement officer to search the place  
23 designated in the warrant, retaining in his or her custody subject to the order of the  
24 court such property or things as are specified in the warrant, including any animal.  
25 If the person applying for the search warrant is a humane officer, the warrant shall



**ASSEMBLY BILL 383**

1 direct that the humane officer accompany the law enforcement officer who is directed  
2 to perform the search. The warrant shall be executed and returned to the court which  
3 issued the warrant in accordance with ss. ~~968.15~~ 968.495 and ~~968.17~~ 968.506. This  
4 section does not affect other powers and duties of law enforcement officers.

5 **SECTION 107.** 173.12 (1m) of the statutes is amended to read:

6 173.12 (1m) If an animal has been seized because it is alleged that the animal  
7 has been used in or constitutes evidence of any crime specified in s. 951.08, the  
8 animal may not be returned to the owner by an officer under s. ~~968.20~~ 968.625 (2).  
9 In any hearing under s. ~~968.20~~ 968.625 (1), the court shall determine if the animal  
10 is needed as evidence or there is reason to believe that the animal has participated  
11 in or been trained for fighting. If the court makes such a finding, the animal shall  
12 be retained in custody.

13 **SECTION 108.** 175.27 (title) of the statutes is created to read:

14 **175.27 (title) Seized dangerous property.**

15 **SECTION 109.** 175.60 (3) (d) of the statutes is amended to read:

16 175.60 (3) (d) The court has prohibited the individual from possessing a  
17 dangerous weapon under s. ~~969.02 (3) (c) or 969.03 (1) (c)~~ 969.33 (5) (b).

18 **SECTION 110.** 175.60 (3) (dm) of the statutes is created to read:

19 175.60 (3) (dm) A district attorney has prohibited the individual from  
20 possessing a dangerous weapon under s. 969.25 (2) (d).

21 **SECTION 111.** 175.60 (3) (e) of the statutes is amended to read:

22 175.60 (3) (e) The individual is on release under s. ~~969.01~~ 969.31 and the  
23 individual may not possess a dangerous weapon as a condition of the release.

24 **SECTION 112.** 175.60 (9g) (a) 2. of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           175.60 (9g) (a) 2. The department shall conduct a criminal history record  
2 search and shall search its records and conduct a search in the national instant  
3 criminal background check system to determine whether the applicant is prohibited  
4 from possessing a firearm under federal law; whether the applicant is prohibited  
5 from possessing a firearm under s. 941.29; whether the applicant is prohibited from  
6 possessing a firearm under s. 51.20 (13) (cv) 1., 2007 stats.; whether the applicant  
7 has been ordered not to possess a firearm under s. 51.20 (13) (cv) 1., 51.45 (13) (i) 1.,  
8 54.10 (3) (f) 1., or 55.12 (10) (a); whether the applicant is subject to an injunction  
9 under s. 813.12 or 813.122, or a tribal injunction, as defined in s. 813.12 (1) (e), issued  
10 by a court established by any federally recognized Wisconsin Indian tribe or band,  
11 except the Menominee Indian tribe of Wisconsin, that includes notice to the  
12 respondent that he or she is subject to the requirements and penalties under s.  
13 941.29 and that has been filed with the circuit court under s. 806.247 (3); and  
14 whether the applicant is prohibited from possessing a firearm under s. 813.125 (4m);  
15 and to determine if the court has prohibited the applicant from possessing a  
16 dangerous weapon under s. ~~969.02 (3) (e) or 969.03 (1) (e)~~ 969.33 (5) (b), if a district  
17 attorney has prohibited the individual from possessing a dangerous weapon under  
18 s. 969.25 (2) (d), and if the applicant is prohibited from possessing a dangerous  
19 weapon as a condition of release under s. ~~969.01~~ 969.31.

20           **SECTION 113.** 175.60 (11) (a) 2. b. of the statutes is amended to read:

21           175.60 (11) (a) 2. b. The individual is found incompetent under s. ~~971.14~~ 975.34  
22 (6) (b).

23           **SECTION 114.** 175.60 (11) (a) 2. c. of the statutes is amended to read:

24           175.60 (11) (a) 2. c. The individual is found not guilty of any crime by reason  
25 of mental disease or mental defect ~~under s. 971.17~~.

**ASSEMBLY BILL 383**

1           **SECTION 115.** 175.60 (11) (a) 2. g. of the statutes is amended to read:

2           175.60 (11) (a) 2. g. A court has prohibited the individual from possessing a  
3 dangerous weapon under s. ~~969.02 (3) (e) or 969.03 (1) (e)~~ 969.33 (5) (b).

4           **SECTION 116.** 175.60 (11) (a) 2. gm. of the statutes is created to read:

5           175.60 (11) (a) 2. gm. A district attorney has prohibited the individual from  
6 possessing a dangerous weapon under s. 969.25 (2) (d).

7           **SECTION 117.** 175.60 (11) (a) 2. i. of the statutes is amended to read:

8           175.60 (11) (a) 2. i. The individual is on release under s. ~~969.01~~ 969.31 and the  
9 individual may not possess a dangerous weapon as a condition of the release.

10          **SECTION 118.** 175.60 (14) (am) of the statutes is amended to read:

11          175.60 (14) (am) The department shall suspend a license issued under this  
12 section if a court has prohibited the licensee from possessing a dangerous weapon  
13 under s. ~~969.02 (3) (e) or 969.03 (1) (e)~~ 969.33 (5) (b) or if a district attorney has  
14 prohibited the licensee from possessing a dangerous weapon under s. 969.25 (2) (d).

15 If the individual whose license was suspended is no longer subject to the prohibition  
16 under s. ~~969.02 (3) (e) or 969.03 (1) (e)~~ 969.25 (2) (d) or 969.33 (5) (b), whichever is  
17 applicable, sub. (3) (b), (c), (d), (e), (f), or (g) does not apply to the individual, and the  
18 suspended license would not have expired under sub. (15) (a) had it not been  
19 suspended, the department shall restore the license within 5 business days of  
20 notification that the licensee is no longer subject to the prohibition.

21          **SECTION 119.** 195.048 (2) of the statutes is amended to read:

22          195.048 (2) The immunity provided under sub. (1) is subject to the restrictions  
23 under s. ~~972.085~~ 967.18.

24          **SECTION 120.** 196.207 (3) (e) of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           196.207 (3) (e) A trap and trace device as authorized under ss. ~~968.34~~ 968.376  
2 to ~~968.37~~ 968.405.

3           **SECTION 121.** 196.48 (1) (b) of the statutes is amended to read:

4           196.48 (1) (b) The immunity provided under par. (a) is subject to the restrictions  
5 under s. ~~972.085~~ 967.18.

6           **SECTION 122.** 230.81 (2) of the statutes is amended to read:

7           230.81 (2) Nothing in this section prohibits an employee from disclosing  
8 information to an appropriate law enforcement agency, a state or federal district  
9 attorney in whose jurisdiction the crime is alleged to have occurred, a state or federal  
10 grand jury, or a judge in a proceeding commenced under s. ~~968.26~~ 968.105, or  
11 disclosing information pursuant to any subpoena issued by any person authorized  
12 to issue subpoenas under s. 885.01. Any such disclosure of information is a lawful  
13 disclosure under this section and is protected under s. 230.83.

14           **SECTION 123.** 251.16 of the statutes is amended to read:

15           **251.16 Local health department; evidence.** The reports and employees of  
16 a local health department are subject to s. ~~970.03 (12) (b)~~ 971.75 (7) (b).

17           **SECTION 124.** 252.11 (5m) of the statutes is amended to read:

18           252.11 (5m) A health care professional, as defined in s. ~~968.38~~ 968.725 (1) (a),  
19 acting under an order of a court under s. 938.296 (4) or ~~968.38~~ 968.725 (4) may,  
20 without first obtaining informed consent to the testing, subject an individual to a test  
21 or a series of tests to ascertain whether that individual is infected with a sexually  
22 transmitted disease. No sample used for performance of a test under this subsection  
23 may disclose the name of the test subject.

24           **SECTION 125.** 252.11 (7) of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           252.11 (7) Reports, examinations, and inspections and all records concerning  
2 sexually transmitted diseases are confidential and not open to public inspection, and  
3 may not be divulged except as may be necessary for the preservation of the public  
4 health, in the course of commitment proceedings under sub. (5), or as provided under  
5 s. 938.296 (4) or ~~968.38~~ 968.725 (4). If a physician, physician assistant, or advanced  
6 practice nurse prescriber has reported a case of sexually transmitted disease to the  
7 department under sub. (4), information regarding the presence of the disease and  
8 treatment is not privileged when the patient, physician, physician assistant, or  
9 advanced practice nurse prescriber is called upon to testify to the facts before any  
10 court of record.

11           **SECTION 126.** 252.15 (2m) (b) 3., (3m) (d) 14. and (4) (c) of the statutes are  
12 amended to read:

13           252.15 (2m) (b) 3. HIV testing by a health care professional acting under an  
14 order of the court under sub. (5j) or s. 938.296 (4) or (5) or ~~968.38~~ 968.725 (4) or (5).  
15 No sample used for laboratory test purposes under this subdivision may disclose the  
16 name of the HIV test subject, and the HIV test results may not be made part of the  
17 individual's permanent medical record.

18           (3m) (d) 14. To a person under s. 938.296 (4) (a) to (e) as specified in s. 938.296  
19 (4); to a person under s. 938.296 (5) (a) to (e) as specified in s. 938.296 (5); to a person  
20 under s. ~~968.38~~ 968.725 (4) (a) to (c) as specified in s. ~~968.38~~ 968.725 (4); or to a person  
21 under s. ~~968.38~~ 968.725 (5) (a) to (c) as specified in s. ~~968.38~~ 968.725 (5).

22           (4) (c) A record of the results of an HIV test administered to the person, except  
23 that results of an HIV test administered under sub. (5g) or (5j) or s. 938.296 (4) or  
24 (5) or ~~968.38~~ 968.725 (4) or (5) that include the identity of the test subject may not  
25 be maintained without the consent of the test subject.

**ASSEMBLY BILL 383**

1           **SECTION 127.** 301.03 (3c) of the statutes is amended to read:

2           301.03 (**3c**) If requested by the department of health services, contract with  
3 that department to supervise and provide services to persons who are conditionally  
4 transferred or discharged under s. 51.37 (9), conditionally released under s. ~~971.17~~  
5 ~~(3)~~ 975.57 (4) or 975.59, or placed on supervised release under s. 980.06 (2), 1997  
6 stats., or s. 980.08.

7           **SECTION 128.** 301.03 (7m) of the statutes is amended to read:

8           301.03 (**7m**) Supervise criminal defendants accepted into the custody of the  
9 department under s. ~~969.02 (3) (a) or 969.03 (1) (a)~~ ch. 969. The department shall  
10 charge the county that is prosecuting the defendant a fee for providing this  
11 supervision. The department shall set the fee by rule.

12           **SECTION 129.** 301.035 (2) of the statutes is amended to read:

13           301.035 (**2**) Assign hearing examiners from the division to preside over  
14 hearings under s. 975.10 (2), 2011 stats., ss. 302.11 (7), 302.113 (9), 302.114 (9),  
15 938.357 (5), and 973.10 and 975.10 (2), and ch. 304.

16           **SECTION 130.** 301.035 (4) of the statutes is amended to read:

17           301.035 (**4**) Supervise employees in the conduct of the activities of the division  
18 and be the administrative reviewing authority for decisions of the division under s.  
19 975.10 (2), 2011 stats., ss. 302.11 (7), 302.113 (9), 302.114 (9), 938.357 (5), 973.10, and  
20 973.155 (2) and 975.10 (2), and ch. 304.

21           **SECTION 131.** 301.45 (1g) (c) of the statutes is amended to read:

22           301.45 (**1g**) (c) Is found not guilty or not responsible by reason of mental disease  
23 or defect on or after December 25, 1993, and committed under s. 51.20 or ~~971.17~~  
24 subch. III of ch. 975 for a sex offense.

25           **SECTION 132.** 301.45 (1g) (d) of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           301.45 (1g) (d) Is in institutional care or on conditional transfer under s. 51.35  
2           (1) or conditional release under s. ~~971.17~~ 975.57 (4) or 975.59 on or after  
3           December 25, 1993, for a sex offense.

4           **SECTION 133.** 301.45 (1g) (dd) of the statutes is amended to read:

5           301.45 (1g) (dd) Is in institutional care or on conditional transfer under s. 51.35  
6           (1) or conditional release under s. ~~971.17~~ 975.57 (4) or 975.59 on or after  
7           December 25, 1993, for a violation, or for the solicitation, conspiracy or attempt to  
8           commit a violation, of a law of this state that is comparable to a sex offense.

9           **SECTION 134.** 301.45 (1g) (dp) of the statutes is amended to read:

10          301.45 (1g) (dp) Is in institutional care under, or on parole from, a commitment  
11          for specialized treatment under ch. ~~975, 2011 stats.,~~ on or after December 25, 1993.

12          **SECTION 135.** 301.45 (1g) (e) of the statutes is amended to read:

13          301.45 (1g) (e) Is ordered by a court under s. 51.20 (13) (ct) 1m., 938.34 (15m)  
14          (am), 938.345 (3), ~~971.17 (1m) (b) 1m. or 973.048 (1m),~~ or 975.54 (3) (a) to comply with  
15          the reporting requirements under this section.

16          **SECTION 136.** 301.45 (1m) (b) of the statutes is amended to read:

17          301.45 (1m) (b) If a person believes that he or she is not required under par.  
18          (a) to comply with the reporting requirements under this section and the person is  
19          not before the court under s. 51.20 (13) (ct), 938.34 (15m), ~~971.17 (1m) (b) or 973.048,~~  
20          or 975.54 (3), the person may move a court to make a determination of whether the  
21          person satisfies the criteria specified in par. (a). A motion made under this  
22          paragraph shall be filed with the circuit court for the county in which the person was  
23          convicted, adjudicated delinquent or found not guilty or not responsible by reason of  
24          mental disease or defect.

25          **SECTION 137.** 301.45 (1m) (be) of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           301.45 **(1m)** (be) A person who files a motion under par. (b) or s. 51.20 (13) (ct)  
2           2m., 938.34 (15m) (bm), ~~971.17 (1m) (b) 2m. or 973.048 (2m), or 975.54 (3) (b)~~  
3           requesting a determination of whether the person is required to comply with the  
4           reporting requirements under this section shall send a copy of the motion to the  
5           district attorney for the county in which the motion is filed. The district attorney  
6           shall make a reasonable attempt to contact the victim of the crime that is the subject  
7           of the person's motion to inform the victim of his or her right to make or provide a  
8           statement under par. (bv).

9           **SECTION 138.** 301.45 (1m) (bm) of the statutes is amended to read:

10           301.45 **(1m)** (bm) A court shall hold a hearing on a motion made by a person  
11           under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), ~~971.17 (1m) (b) 2m. or~~  
12           ~~973.048 (2m), or 975.54 (3) (b)~~ requesting a determination of whether the person is  
13           required to comply with the reporting requirements under this section. The district  
14           attorney who receives a copy of a motion under par. (be) may appear at the hearing.

15           **SECTION 139.** 301.45 (1m) (bv) of the statutes is amended to read:

16           301.45 **(1m)** (bv) Before deciding a motion filed under par. (b) or s. 51.20 (13)  
17           (ct) 2m., 938.34 (15m) (bm), ~~971.17 (1m) (b) 2m. or 973.048 (2m), or 975.54 (3) (b)~~  
18           requesting a determination of whether the person is required to comply with the  
19           reporting requirements under this section, the court shall allow the victim of the  
20           crime that is the subject of the motion to make a statement in court at the hearing  
21           under par. (bm) or to submit a written statement to the court. A statement under this  
22           paragraph must be relevant to whether the person satisfies the criteria specified in  
23           par. (a).

24           **SECTION 140.** 301.45 (1m) (d) 1. of the statutes is amended to read:



**ASSEMBLY BILL 383**

1           301.45 **(1m)** (d) 1. Before deciding a motion filed by a person under par. (b) or  
2           s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), ~~971.17 (1m) (b) 2m. or 973.048 (2m), or~~  
3           975.54 (3) (b) requesting a determination of whether the person is required to comply  
4           with the reporting requirements under this section, a court may request the person  
5           to be examined by a physician, psychologist, or other expert approved by the court.  
6           If the person refuses to undergo an examination requested by the court under this  
7           subdivision, the court shall deny the person's motion without prejudice.

8           **SECTION 141.** 301.45 (1m) (e) (intro.) of the statutes is amended to read:

9           301.45 **(1m)** (e) (intro.) At the hearing held under par. (bm), the person who  
10          filed the motion under par. (b) or s. 51.20 (13) (ct) 2m., 938.34 (15m) (bm), ~~971.17 (1m)~~  
11          ~~(b) 2m. or 973.048 (2m), or 975.54 (3) (b)~~ has the burden of proving by clear and  
12          convincing evidence that he or she satisfies the criteria specified in par. (a). In  
13          deciding whether the person has satisfied the criterion specified in par. (a) 3., the  
14          court may consider any of the following:

15          **SECTION 142.** 301.45 (1p) (b) of the statutes is amended to read:

16          301.45 **(1p)** (b) If a person is covered under sub. (1g) based solely on an order  
17          that was entered under s. 971.17 (1m) (b) 1m., 2011 stats., or under s. 51.20 (13) (ct)  
18          1m., 938.34 (15m) (am), 938.345 (3) (a), 971.17 (1m) (b) 1m., or, 973.048 (1m), or  
19          975.54 (3) (a) in connection with a violation, or the solicitation, conspiracy, or attempt  
20          to commit a violation, of s. 942.09, and the court provided in the order that the person  
21          be released from the requirement to comply with the reporting requirements under  
22          this section upon satisfying the conditions of the court order under s. 51.20 (13) (ct)  
23          1m. or the dispositional order under subch. VI of ch. 938, upon the termination or  
24          expiration of a commitment order under s. 971.17, 2011 stats., or under s. 975.54 (3)  
25          (a), or upon successful completion of the sentence or probation as provided under s.

**ASSEMBLY BILL 383**

1 973.048 (1m) (b), whichever is applicable, and the person satisfies the conditions of  
2 the court order under s. 51.20 (13) (ct) 1m. or the dispositional order under subch. VI  
3 of ch. 938, the commitment order under s. 971.17, 2011 stats., or under s. 975.54 (3)  
4 (a) is terminated or expires, or the person successfully completes the sentence or  
5 probation, whichever is applicable, the person is no longer required to comply with  
6 the reporting requirements under this section.

7 **SECTION 143.** 301.45 (3) (a) 3. of the statutes is amended to read:

8 301.45 (3) (a) 3. If the person has been committed under s. 51.20 or ~~971.17~~  
9 subch. II of ch. 975, he or she is subject to this subsection upon being placed on  
10 conditional release under s. ~~971.17~~ 975.57 (4) or 975.59 or on a conditional transfer  
11 under s. 51.35 (1) or, if he or she was not placed on conditional release or on a  
12 conditional transfer, before he or she is terminated under s. ~~971.17 (5)~~ 975.60 or  
13 discharged under s. 51.35 (4) or ~~971.17 (6)~~ 975.61.

14 **SECTION 144.** 301.45 (3) (a) 3g. of the statutes is amended to read:

15 301.45 (3) (a) 3g. If the person has been committed for specialized treatment  
16 under ch. 975, 2011 stats., he or she is subject to this subsection upon being released  
17 on parole under s. 975.10, 2011 stats., or, if he or she was not released on parole,  
18 before being discharged from the commitment under s. 975.09, 2011 stats., or s.  
19 975.12, 2011 stats.

20 **SECTION 145.** 301.45 (3) (b) 3. of the statutes is amended to read:

21 301.45 (3) (b) 3. The department of health services shall notify a person who  
22 is being placed on conditional release, supervised release, conditional transfer or  
23 parole, or is being terminated or discharged from a commitment, under s. 51.20, or  
24 51.35 or 971.17 or, subch. III of ch. 975, ch. 975, 2011 stats., or ch. 980 and who is  
25 covered under sub. (1g) of the need to comply with the requirements of this section.

**ASSEMBLY BILL 383**

1           **SECTION 146.** 301.45 (5) (a) 3. of the statutes is amended to read:

2           301.45 (5) (a) 3. If the person has been committed to the department of health  
3 services under s. 51.20 or ~~971.17~~ subch. III of ch. 975 and is in institutional care or  
4 on conditional transfer under s. 51.35 (1) or conditional release under s. ~~971.17~~  
5 975.57 (4) or 975.59 for a sex offense, 15 years after termination of the commitment  
6 for the sex offense under s. ~~971.17 (5)~~ 975.60 or discharge from the commitment for  
7 the sex offense under s. 51.35 (4) or ~~971.17 (6)~~ 975.61.

8           **SECTION 147.** 301.45 (5) (a) 3m. of the statutes is amended to read:

9           301.45 (5) (a) 3m. If the person has been committed for specialized treatment  
10 under ch. 975, 2011 stats., 15 years after discharge from the commitment under s.  
11 975.09, 2011 stats., or s. 975.12, 2011 stats.

12           **SECTION 148.** 301.45 (5) (b) 3. of the statutes is amended to read:

13           301.45 (5) (b) 3. The court that ordered the person to comply with the reporting  
14 requirements of this section under s. 51.20 (13) (ct), 938.34 (15m), 938.345 (3), ~~971.17~~  
15 ~~(1m) (b) or 973.048,~~ or 975.54 (3) also ordered the person to comply with the  
16 requirements until his or her death.

17           **SECTION 149.** 301.45 (6) (a) 2. a. of the statutes is amended to read:

18           301.45 (6) (a) 2. a. The person was ordered under s. 51.20 (13) (ct) 1m., 938.34  
19 (15m) (am), 938.345 (3), ~~971.17 (1m) (b) 1m., or 973.048 (1m),~~ or 975.54 (3) (a) to  
20 comply with the reporting requirements under this section based on a finding that  
21 he or she committed or solicited, conspired, or attempted to commit a misdemeanor.

22           **SECTION 150.** 301.45 (6) (ag) 2. a. of the statutes is amended to read:

23           301.45 (6) (ag) 2. a. The person was ordered under s. 51.20 (13) (ct) 1m., 938.34  
24 (15m) (am), 938.345 (3), ~~971.17 (1m) (b) 1m., or 973.048 (1m),~~ or 975.54 (3) (a) to

**ASSEMBLY BILL 383**

1 comply with the reporting requirements under this section based on a finding that  
2 he or she committed or solicited, conspired, or attempted to commit a misdemeanor.

3 **SECTION 151.** 301.45 (6) (bm) of the statutes is amended to read:

4 301.45 (6) (bm) Subject to s. ~~971.19~~ 970.14 (9), a district attorney or, upon the  
5 request of a district attorney, the department of justice may prosecute a knowing  
6 failure to comply with any requirement to provide information under subs. (2) to (4).  
7 If the department of corrections determines that there is probable cause to believe  
8 that a person has knowingly failed to comply with any requirement to provide  
9 information under subs. (2) to (4) or has intentionally violated sub. (4r), the  
10 department shall forward a certified copy of all pertinent departmental information  
11 to the applicable district attorney. The department shall certify the copy in  
12 accordance with s. 889.08.

13 **SECTION 152.** 301.45 (7) (f) 4. of the statutes is amended to read:

14 301.45 (7) (f) 4. If the person was ordered by a court under s. 971.17 (1m) (b)  
15 1m., 2011 stats., or under s. 975.54 (3) (a) to comply with the reporting requirements  
16 under this section, when the department receives notice under s. ~~971.17 (6m) (b) 2.~~  
17 subch. III of ch. 975 that the commitment order under s. 971.17, 2011 stats., or under  
18 s. 975.54 (3) (a) is terminated or has expired.

19 **SECTION 153.** 301.46 (3) (d) of the statutes is amended to read:

20 301.46 (3) (d) The department of health services shall provide the department  
21 with access to the names of victims or the family members of victims who have  
22 completed cards requesting notification under s. ~~971.17 (6m)~~ 975.62 or 980.11.

23 **SECTION 154.** 301.47 (3) (b) 1. of the statutes is amended to read:

24 301.47 (3) (b) 1. The person was ordered under s. 51.20 (13) (ct) 1m., 938.34  
25 (15m) (am), 938.345 (3), ~~971.17 (1m) (b) 1m., or~~ 973.048 (1m), or 975.54 (3) (a) to

**ASSEMBLY BILL 383**

1 comply with the reporting requirements under s. 301.45 based on a finding that he  
2 or she committed or solicited, conspired, or attempted to commit a misdemeanor.

3 **SECTION 155.** 301.48 (2) (a) 4. of the statutes is amended to read:

4 301.48 (2) (a) 4. A court that found the person not guilty of a serious child sex  
5 offense by reason of mental disease or ~~mental~~ defect places the person on conditional  
6 release.

7 **SECTION 156.** 301.48 (2) (a) 5. of the statutes is amended to read:

8 301.48 (2) (a) 5. A court that found the person not guilty of a serious child sex  
9 offense by reason of mental disease or ~~mental~~ defect discharges the person under s.  
10 ~~971.17 (6)~~ 975.61. This subdivision does not apply if the person was on conditional  
11 release immediately before being discharged.

12 **SECTION 157.** 301.48 (2) (b) 3. of the statutes is amended to read:

13 301.48 (2) (b) 3. The department of health services places the person on parole  
14 or discharges the person under ch. 975, 2011 stats. This subdivision does not apply  
15 unless the person's commitment was based on his or her commission of a serious child  
16 sex offense.

17 **SECTION 158.** 302.113 (9) (e) of the statutes is amended to read:

18 302.113 (9) (e) If a hearing is to be held under par. (am) before the division of  
19 hearings and appeals in the department of administration, the hearing examiner  
20 may order that a deposition be taken by audiovisual means and allow the use of a  
21 recorded deposition under s. ~~967.04 (7) to (10)~~ 967.22.

22 **SECTION 159.** 302.114 (9) (d) of the statutes is amended to read:

23 302.114 (9) (d) If a hearing is to be held under par. (am) before the division of  
24 hearings and appeals in the department of administration, the hearing examiner

**ASSEMBLY BILL 383**

1 may order that a deposition be taken by audiovisual means and allow the use of a  
2 recorded deposition under s. ~~967.04 (7) to (10)~~ 967.22.

3 **SECTION 160.** 304.06 (3) of the statutes is amended to read:

4 304.06 (3) Every paroled prisoner remains in the legal custody of the  
5 department unless otherwise provided by the department. If the department alleges  
6 that any condition or rule of parole has been violated by the prisoner, the department  
7 may take physical custody of the prisoner for the investigation of the alleged  
8 violation. If the department is satisfied that any condition or rule of parole has been  
9 violated it shall afford the prisoner such administrative hearings as are required by  
10 law. Unless waived by the parolee, the final administrative hearing shall be held  
11 before a hearing examiner from the division of hearings and appeals in the  
12 department of administration who is licensed to practice law in this state. The  
13 hearing examiner shall enter an order revoking or not revoking parole. Upon request  
14 by either party, the administrator of the division of hearings and appeals shall review  
15 the order. The hearing examiner may order that a deposition be taken by audiovisual  
16 means and allow the use of a recorded deposition under s. ~~967.04 (7) to (10)~~ 967.22.

17 If the parolee waives the final administrative hearing, the secretary of corrections  
18 shall enter an order revoking or not revoking parole. If the examiner, the  
19 administrator upon review, or the secretary in the case of a waiver finds that the  
20 prisoner has violated the rules or conditions of parole, the examiner, the  
21 administrator upon review, or the secretary in the case of a waiver, may order the  
22 prisoner returned to prison to continue serving his or her sentence, or to continue on  
23 parole. If the prisoner claims or appears to be indigent, the department shall refer  
24 the prisoner to the authority for indigency determinations specified under s. 977.07  
25 (1).

**ASSEMBLY BILL 383**

1           **SECTION 161.** 304.10 (1) (b) of the statutes is amended to read:

2           304.10 (1) (b) A certified copy of the court record entries, the indictment or  
3 ~~information~~ complaint, and any additional papers on file in the court, if obtainable,  
4 as the governor requires;

5           **SECTION 162.** 322.0767 (1) (a) of the statutes is amended to read:

6           322.0767 (1) (a) If a person subject to a general court-martial is found to lack  
7 substantial mental capacity to understand the proceedings or assist in his or own  
8 defense and the military judge determined that the person is likely to become  
9 competent within the maximum period ~~specified under s. 971.14 (5) (a) of~~  
10 commitment, as defined in s. 975.34 (6) (a), the court-martial convening authority  
11 for the person shall commit the person to the custody of the department of health  
12 services ~~under as provided in s. 971.14 (5) 975.34 (7)~~. If the military judge determines  
13 that the defendant is not likely to become competent ~~in~~ within the ~~time~~ maximum  
14 ~~period specified under s. 971.14 (5) of commitment~~, the military judge shall suspend  
15 or terminate the general court-martial.

16           **SECTION 163.** 322.0767 (1) (b) of the statutes is amended to read:

17           322.0767 (1) (b) The department of health services shall submit all reports that  
18 are required under s. 971.14 (5) (b) 975.36 and that pertain to a person subject to a  
19 commitment order under par. (a) to the court-martial.

20           **SECTION 164.** 322.0767 (1) (c) of the statutes is amended to read:

21           322.0767 (1) (c) Upon receiving a report under s. 971.14 (5) (b) 975.36, the  
22 court-martial shall make a determination as to whether the person has become  
23 competent. If the court-martial determines that the defendant has become  
24 competent, the court-martial shall terminate the commitment to the department of  
25 health services and resume the general court-martial. If the court-martial

**ASSEMBLY BILL 383**

1 determines that the person is making sufficient progress toward becoming  
2 competent, the commitment shall continue. If the court-martial determines that the  
3 person is not likely to become competent to proceed ~~in~~ within the time maximum  
4 period specified under s. 971.14 (5) (a) of commitment, as defined under s. 971.34 (6)  
5 (a), the court-martial shall suspend or terminate the commitment order under this  
6 subsection.

7 **SECTION 165.** 322.0767 (1) (d) of the statutes is amended to read:

8 322.0767 (1) (d) If a person who has been restored to competency again becomes  
9 incompetent, the maximum ~~commitment~~ period under ~~s. 971.14 (5) (a) of~~  
10 commitment shall be as provided under s. ~~971.14 (5) (d)~~ 975.36 (6).

11 **SECTION 166.** 322.0767 (2) (a) of the statutes is amended to read:

12 322.0767 (2) (a) If a court-martial finds a person not guilty by reason of mental  
13 disease or defect, the court-martial shall commit the person to the custody of the  
14 department of health services for a period not to exceed that described under s.  
15 ~~971.17 (1)~~ 975.57 (2).

16 **SECTION 167.** 322.0767 (2) (b) of the statutes is amended to read:

17 322.0767 (2) (b) Using the standard under s. ~~971.17 (3) (a)~~ 975.57 (1), the  
18 court-martial shall determine whether the commitment order under par. (a) shall  
19 specify institutional care or conditional release.

20 **SECTION 168.** 322.0767 (2) (c) of the statutes is amended to read:

21 322.0767 (2) (c) The court-martial has the same authority as a circuit court has  
22 under s. ~~971.17 (2)~~ 975.55 to order the department of health services to conduct a  
23 predisposition investigation using the procedure in s. ~~972.15~~ 973.004 or a mental  
24 examination as provided under s. ~~971.17 (2) (b), (c), and (e)~~ 975.56 to assist the



**ASSEMBLY BILL 383**

1 court-martial in determining whether to place the person in institutional care or to  
2 conditionally release the person.

3 **SECTION 169.** 322.0767 (2) (d) of the statutes is amended to read:

4 322.0767 (2) (d) If the court-martial specifies institutional care, the  
5 department of health services shall place the person in an institution as provided  
6 under s. ~~971.17 (3) (e)~~ 975.57 (3). If the court-martial specifies conditional release,  
7 the department of health services, in conjunction with the person's county of  
8 residence, shall develop a plan for conditional release as provided under s. ~~971.17 (3)~~  
9 ~~(d)~~ 975.57 (4).

10 **SECTION 170.** 322.0767 (2) (e) of the statutes is amended to read:

11 322.0767 (2) (e) After the court-martial enters an order under this subsection  
12 and transfers custody of a person to the department of health services, the person  
13 shall be subject to s. ~~971.17 subch. III of ch. 975~~ and the circuit court for the county  
14 in which the person is institutionalized or where the person is placed on conditional  
15 release shall have jurisdiction in proceedings under s. ~~971.17 subch. III of ch. 975~~.

16 **SECTION 171.** 343.305 (9) (c) of the statutes is amended to read:

17 343.305 (9) (c) If a law enforcement officer informs the circuit or municipal  
18 court that a person has refused to submit to a test under sub. (3) (a), (am), or (ar), the  
19 court shall be prepared to hold any requested hearing to determine if the refusal was  
20 proper. The scope of the hearing shall be limited to the issues outlined in par. (a) 5.  
21 or (am) 5. Section ~~967.055~~ 970.25 applies to any hearing under this subsection.

22 **SECTION 172.** 345.20 (1) (a) of the statutes is amended to read:

23 345.20 (1) (a) "Judge" ~~has the meaning specified in s. 967.02 (6)~~ means a judge  
24 of a court of record.

25 **SECTION 173.** 345.20 (2) (c) of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           345.20 (2) (c) ~~Sections 967.055 and 972.11 (3m) apply~~ Section 970.25 applies  
2 to traffic forfeiture actions for violations of s. 346.63 (1) or (5) or a local ordinance in  
3 conformity therewith.

4           **SECTION 174.** 345.28 (3) (a) of the statutes is amended to read:

5           345.28 (3) (a) If the person does not pay the forfeiture or appear in court in  
6 response to the citation for a nonmoving traffic violation on the date specified in the  
7 citation or, if no date is specified in the citation, within 28 days after the citation is  
8 issued, the authority that issued the citation may issue a summons under s. 968.04  
9 ~~(3) (b)~~ 969.22 to the person and, in lieu of or in addition to issuing the summons, may  
10 proceed under sub. (4) or (5) but, except as provided in this section, no warrant may  
11 be issued for the person. If the person does not pay towing and storage charges  
12 associated with a citation for a nonmoving traffic violation, the authority that issued  
13 the citation may proceed under sub. (4).

14           **SECTION 175.** 345.28 (5) (b) 1. of the statutes is amended to read:

15           345.28 (5) (b) 1. If a person fails to respond to the notices under par. (a) within  
16 the time specified in the notice, a warrant that substantially complies with the  
17 mandatory provisions under s. 968.04 ~~(3) (a)~~ 969.21 (1) may be issued for the person,  
18 except that the warrant shall direct the officer to accept the person's deposit of money  
19 or his or her valid Wisconsin operator's license, as provided under subd. 2. a., in lieu  
20 of serving the warrant and arresting the person.

21           **SECTION 176.** 345.31 of the statutes is amended to read:

22           **345.31 Venue in traffic regulation actions.** Section ~~971.19 on place~~ 970.14  
23 on venue of trial in criminal actions applies to actions for the violation of traffic  
24 regulations and nonmoving traffic violations except that, in the case of a violation of  
25 an ordinance of a municipality which is located in more than one county, the action

**ASSEMBLY BILL 383**

1 may be brought in any court sitting in that municipality even though in another  
2 county. As an alternative, the plaintiff may bring the action in the county where the  
3 defendant resides.

4 **SECTION 177.** 346.63 (2) (am) of the statutes is amended to read:

5 346.63 (2) (am) A person may be charged with and a prosecutor may proceed  
6 upon a complaint based upon a violation of any combination of par. (a) 1., 2., or 3. for  
7 acts arising out of the same incident or occurrence. If the person is charged with  
8 violating any combination of par. (a) 1., 2., or 3. in the complaint, the crimes shall be  
9 joined under s. ~~971.12~~ 970.13. If the person is found guilty of any combination of par.  
10 (a) 1., 2., or 3. for acts arising out of the same incident or occurrence, there shall be  
11 a single conviction for purposes of sentencing and for purposes of counting  
12 convictions under ss. 343.30 (1q) and 343.305. Paragraph (a) 1., 2., and 3. each  
13 require proof of a fact for conviction which the others do not require.

14 **SECTION 178.** 346.63 (6) (b) of the statutes is amended to read:

15 346.63 (6) (b) A person may be charged with and a prosecutor may proceed upon  
16 a complaint based upon a violation of par. (a) or sub. (2) (a) 1. or both for acts arising  
17 out of the same incident or occurrence. If the person is charged with violating both  
18 par. (a) and sub. (2) (a) 1. in the complaint, the crimes shall be joined under s. ~~971.12~~  
19 970.13. If the person is found guilty of violating both par. (a) and sub. (2) (a) 1. for  
20 acts arising out of the same incident or occurrence, there shall be a single conviction  
21 for purposes of sentencing and for purposes of counting convictions. Paragraph (a)  
22 and sub. (2) (a) 1. each require proof of a fact for conviction which the other does not  
23 require.

24 **SECTION 179.** 350.101 (2) (c) of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           350.101 (2) (c) *Related charges*. A person may be charged with and a prosecutor  
2 may proceed upon a complaint based upon a violation of any combination of par. (a),  
3 (b), or (bm) for acts arising out of the same incident or occurrence. If the person is  
4 charged with violating any combination of par. (a), (b), or (bm) in the complaint, the  
5 crimes shall be joined under s. ~~971.12~~ 970.13. If the person is found guilty of any  
6 combination of par. (a), (b), or (bm) for acts arising out of the same incident or  
7 occurrence, there shall be a single conviction for purposes of sentencing and for  
8 purposes of counting convictions under s. 350.11 (3) (a) 2. and 3. Paragraphs (a), (b),  
9 and (bm) each require proof of a fact for conviction which the others do not require.

10           **SECTION 180.** 551.602 (5) (b) of the statutes is amended to read:

11           551.602 (5) (b) The immunity provided under par. (a) is subject to the  
12 restrictions under s. ~~972.085~~ 967.18.

13           **SECTION 181.** 553.55 (3) (b) of the statutes is amended to read:

14           553.55 (3) (b) The immunity provided under par. (a) is subject to the restrictions  
15 under s. ~~972.085~~ 967.18.

16           **SECTION 182.** 601.62 (5) (b) of the statutes is amended to read:

17           601.62 (5) (b) The immunity provided under par. (a) is subject to the restrictions  
18 under s. ~~972.085~~ 967.18.

19           **SECTION 183.** 631.95 (1) (c) of the statutes is amended to read:

20           631.95 (1) (c) "Domestic abuse" has the meaning given in s. ~~968.075 (1) (a)~~  
21 969.27 (1) (a).

22           **SECTION 184.** 704.16 (1) (b) 4. of the statutes is amended to read:

23           704.16 (1) (b) 4. A condition of release under s. 974.09 or ch. 969 ordering the  
24 person not to contact the tenant.

25           **SECTION 185.** 704.16 (1) (b) 7. of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           704.16 (1) (b) 7. A criminal complaint that was filed against the person as a  
2 result of the person being arrested for committing a domestic abuse offense against  
3 the tenant under s. ~~968.075~~ 969.27.

4           **SECTION 186.** 704.16 (3) (b) 2. d. of the statutes is amended to read:

5           704.16 (3) (b) 2. d. A condition of release under s. 974.09 or ch. 969 ordering the  
6 offending tenant not to contact the other tenant.

7           **SECTION 187.** 704.16 (3) (b) 2. g. of the statutes is amended to read:

8           704.16 (3) (b) 2. g. A criminal complaint that was filed against the offending  
9 tenant as a result of the offending tenant being arrested for committing a domestic  
10 abuse offense against the other tenant under s. ~~968.075~~ 969.27.

11          **SECTION 188.** 756.06 (2) (a) of the statutes is amended to read:

12          756.06 (2) (a) A jury in a felony case shall consist of 12 persons unless both  
13 parties agree on a lesser number as provided in s. ~~972.02~~ 972.025 (2).

14          **SECTION 189.** 756.06 (2) (c) of the statutes is amended to read:

15          756.06 (2) (c) A jury in a case involving an offense for which a forfeiture may  
16 be imposed or in an inquest under s. ~~979.05~~ 968.025 shall consist of 6 persons.

17          **SECTION 190.** 757.54 (2) (a) 1. of the statutes is amended to read:

18          757.54 (2) (a) 1. "Custody" has the meaning given in s. ~~968.205~~ 968.645 (1) (a).

19          **SECTION 191.** 757.54 (2) (a) 2. of the statutes is amended to read:

20          757.54 (2) (a) 2. "Discharge date" has the meaning given in s. ~~968.205~~ 968.645  
21 (1) (b).

22          **SECTION 192.** 757.69 (1) (b) of the statutes is amended to read:

23          757.69 (1) (b) In criminal matters issue summonses, arrest warrants, or search  
24 warrants, determine probable cause to support a warrantless arrest, ~~conduct~~  
25 perform the duties of the court at an initial appearances of persons arrested

**ASSEMBLY BILL 383**

1 ~~appearance under s. 971.027, set bail, inform the defendant in accordance with s.~~  
2 ~~970.02 (1),~~ refer the person to the authority for indigency determinations specified  
3 under s. 977.07 (1), conduct the preliminary examination and arraignment, and,  
4 with the consent of both the state and the defendant, accept a guilty plea. If a court  
5 refers a disputed restitution issue under s. 973.20 (13) (c) 4., the circuit court  
6 commissioner shall conduct the hearing on the matter in accordance with s. 973.20  
7 (13) (c) 4.

8 **SECTION 193.** 757.69 (1) (i) of the statutes is amended to read:

9 757.69 (1) (i) Conduct inquests under subch. I of ch. 979 968.

10 **SECTION 194.** 758.171 of the statutes is amended to read:

11 **758.171 Judicial conference: uniform citation.** The judicial conference  
12 shall adopt a uniform citation form for use as authorized under s. ~~968.085~~ 969.24.  
13 A duly authenticated copy of this form shall be furnished to the secretary of state and  
14 kept on file in his or her office. The secretary of state shall transmit a copy of this  
15 form to the clerks of circuit court.

16 **SECTION 195.** 758.19 (5) (a) 5. of the statutes is repealed.

17 **SECTION 196.** 767.87 (4) (b) of the statutes is amended to read:

18 767.87 (4) (b) The immunity provided under par. (a) is subject to the restrictions  
19 under s. ~~972.085~~ 967.18.

20 **SECTION 197.** 781.04 (1) of the statutes is amended to read:

21 781.04 (1) In an action or proceeding seeking the remedy available by habeas  
22 corpus, the court may admit the prisoner to bail in accordance with s. 974.09 or ch.  
23 969.

24 **SECTION 198.** 785.03 (1) (b) of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           785.03 (1) (b) *Punitive sanction.* The district attorney of a county, the attorney  
2           general or a special prosecutor appointed by the court may seek the imposition of a  
3           punitive sanction by issuing a complaint charging a person with contempt of court  
4           and reciting the sanction sought to be imposed. The district attorney, attorney  
5           general or special prosecutor may issue the complaint on his or her own initiative or  
6           on the request of a party to an action or proceeding in a court or of the judge presiding  
7           in an action or proceeding. The complaint shall be processed under chs. 967 to 973  
8           and 975. If the contempt alleged involves disrespect to or criticism of a judge, that  
9           judge is disqualified from presiding at the trial of the contempt unless the person  
10          charged consents to the judge presiding at the trial.

11           **SECTION 199.** 800.035 (8) of the statutes is amended to read:

12           800.035 (8) If the defendant does not appear, but has made a deposit in the  
13           amount set for the violation, he or she is deemed to have tendered a plea of no contest  
14           and submits to a forfeiture, plus costs, fees, and surcharges imposed under ch. 814,  
15           not exceeding the amount of the deposit. The court may impose any other penalties  
16           allowed by law. The court may either accept the plea of no contest and enter  
17           judgment accordingly, or reject the plea and issue a summons. If the court finds that  
18           the violation meets the conditions in s. 800.093 (1), the court may summon the  
19           alleged violator into court to determine if restitution shall be ordered under s.  
20           800.093. If the defendant fails to appear in response to the summons, the court may  
21           issue a warrant under s. ~~968.09~~ 969.50. If the defendant has made a deposit but does  
22           appear, the court shall allow the defendant to withdraw the plea of no contest.

23           **SECTION 200.** 801.02 (7) (a) 2. c. of the statutes is amended to read:

24           801.02 (7) (a) 2. c. A person bringing an action seeking relief from a judgment  
25           of conviction or a sentence of a court, including an action for an extraordinary writ

**ASSEMBLY BILL 383**

1 or a supervisory writ seeking relief from a judgment of conviction or a sentence of a  
2 court or an action under s. 809.30, 809.40, ~~973.19~~ 974.03, 974.06 or 974.07.

3 **SECTION 201.** 801.02 (7) (a) 2. e. of the statutes is amended to read:

4 801.02 (7) (a) 2. e. A person who is not serving a sentence for the conviction of  
5 a crime but who is detained, admitted or committed under ch. 51 or 55 or s. ~~971.14~~  
6 ~~(2) or (5)~~ 975.32 or 975.34.

7 **SECTION 202.** 801.50 (5t) of the statutes is renumbered 801.50 (5t) (a) and  
8 amended to read:

9 801.50 (5t) (a) Except as otherwise provided in ss. 801.52 and ~~971.223~~ 971.72  
10 (1) and (2), venue in a civil action to impose a forfeiture upon a resident of this state  
11 for a violation of chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, or for a  
12 violation of any other law arising from or in relation to the official functions of the  
13 subject of the investigation or any matter that involves elections, ethics, or lobbying  
14 regulation under chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, shall be in  
15 circuit court for the county where the defendant resides. For purposes of this  
16 ~~subsection paragraph~~, a person other than a natural person resides within a county  
17 if the person's principal place of operation is located within that county. This  
18 subsection

19 (b) Paragraph (a) does not affect which prosecutor has responsibility under s.  
20 978.05 (2) to prosecute civil actions ~~arising from violations under s. 971.223 (1)~~  
21 described under par. (a).

22 **SECTION 203.** 801.52 of the statutes is amended to read:

23 **801.52 Discretionary change of venue.** The court may at any time, upon  
24 its own motion, the motion of a party or the stipulation of the parties, change the  
25 venue to any county in the interest of justice or for the convenience of the parties or



**ASSEMBLY BILL 383**

1 witnesses, except that venue in a civil action to impose a forfeiture for a violation of  
2 chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19 or for a violation of any other  
3 law arising from or in relation to the official functions of the subject of the  
4 investigation or any matter that involves elections, ethics, or lobbying regulation  
5 under chs. 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, may be changed only  
6 as provided in s. ~~971.223~~ 971.72 (1) and (2) or in the same manner that is authorized  
7 for a change in the venue of a criminal trial under s. ~~971.22~~ 971.70. This section does  
8 not apply to proceedings under ch. 980.

9 **SECTION 204.** 807.05 of the statutes is amended to read:

10 **807.05 Stipulations.** No agreement, stipulation, or consent between the  
11 parties or their attorneys, in respect to the proceedings in an action or special  
12 proceeding shall be binding unless made in court or during a proceeding conducted  
13 under s. 807.13 or ~~967.08~~ 967.14 and entered in the minutes or recorded by the  
14 reporter, or made in writing and subscribed by the party to be bound thereby or the  
15 party's attorney.

16 **SECTION 205.** 808.03 (3) (b) of the statutes is amended to read:

17 808.03 (3) (b) An order denying a motion to suppress evidence or a motion  
18 challenging the admissibility of a statement of a defendant may be reviewed upon  
19 appeal from a final judgment or order notwithstanding the fact that the judgment  
20 or order was entered upon a plea of guilty or no contest to the ~~information or~~ criminal  
21 complaint.

22 **SECTION 206.** 808.04 (3) of the statutes is amended to read:

23 808.04 (3) Except as provided in subs. (4) and (7), an appeal in a proceeding  
24 under s. ~~971.17~~ subch. III of ch. 975, a criminal case, or a case under ch. 48, 51, 55,

**ASSEMBLY BILL 383**

1 938, or 980 shall be initiated within the time period specified in s. 809.30 (2) or 809.32  
2 (2), whichever is applicable.

3 **SECTION 207.** 808.04 (4) of the statutes is amended to read:

4 808.04 (4) Except as provided in sub. (7m), an appeal by the state in a  
5 proceeding under ~~s. 971.17~~ subch. III of ch. 975, a criminal case under s. 974.05, or  
6 a case under ch. 48, 938, or 980 shall be initiated within 45 days of entry of the  
7 judgment or order appealed from.

8 **SECTION 208.** 808.075 (4) (b) 4. of the statutes is amended to read:

9 808.075 (4) (b) 4. Commitment, conditional release, recommitment, and  
10 discharge under s. ~~971.17~~ subch. III of ch. 975 of a person found not guilty by reason  
11 of mental disease or defect.

12 **SECTION 209.** 808.075 (4) (g) 1. of the statutes is amended to read:

13 808.075 (4) (g) 1. Release on ~~bond~~ conditions under s. 809.31 or ~~969.01 (2)~~  
14 974.09 or ch. 969.

15 **SECTION 210.** 808.075 (4) (g) 2. of the statutes is amended to read:

16 808.075 (4) (g) 2. Modification or revocation of ~~bond~~ under s. 969.01 (2) (e) or  
17 969.08 conditions of release under s. 974.09 (2) or ch. 969.

18 **SECTION 211.** 808.075 (4) (g) 7. of the statutes is amended to read:

19 808.075 (4) (g) 7. Commitment, conditional release, recommitment, and  
20 discharge under s. ~~971.17~~ subch. III of ch. 975 of a person found not guilty by reason  
21 of mental disease or defect.

22 **SECTION 212.** Subchapter III (title) of chapter 809 [precedes 809.30] of the  
23 statutes is amended to read:

24 **CHAPTER 809**

25 **SUBCHAPTER III**

**ASSEMBLY BILL 383**

1 APPEAL PROCEDURE IN COURT OF  
2 APPEALS IN S. 971.17 PROCEEDINGS  
3 UNDER SUBCH. III OF CH. 975 AND  
4 IN CRIMINAL AND CH. 48, 51, 55, 938,  
5 AND 980 CASES

6 **SECTION 213.** 809.30 (title) of the statutes is amended to read:

7 **809.30** (title) **Rule (Appeals in s. 971.17 proceedings under subch. III of**  
8 **ch. 975 and in criminal, ch. 48, 51, 55, 938, and 980 cases).**

9 **SECTION 214.** 809.30 (1) (a) of the statutes is amended to read:

10 809.30 (1) (a) "Final adjudication" means the entry of a final judgment or order  
11 by the circuit court in a s. 971.17 proceeding under subch. III of ch. 975, in a criminal  
12 case, or in a ch. 48, 51, 55, 938, or 980 case, other than a termination of parental rights  
13 case under s. 48.43 or a parental consent to abortion case under s. 48.375 (7).

14 **SECTION 215.** 809.30 (1) (b) 4. of the statutes is amended to read:

15 809.30 (1) (b) 4. A subject individual or ward seeking postdisposition relief in  
16 a s. 971.17 proceeding under subch. III of ch. 975 or a case under ch. 51, 55, or 980.

17 **SECTION 216.** 809.30 (1) (c) of the statutes is amended to read:

18 809.30 (1) (c) "Postconviction relief" means an appeal or a motion for  
19 postconviction relief in a criminal case, other than an appeal, motion, or petition  
20 under ss. 302.113 (7m) or (9g), ~~973.19~~, 973.195, 973.198, 974.03, 974.06, or 974.07  
21 (2). In a ch. 980 case, the term means an appeal or a motion for postcommitment  
22 relief under s. 980.038 (4).

23 **SECTION 217.** 809.30 (1) (e) of the statutes is amended to read:

24 809.30 (1) (e) "Prosecutor" means a district attorney, corporation counsel, or  
25 other attorney authorized by law to represent the state in a criminal case, a

**ASSEMBLY BILL 383**

1 proceeding under ~~s. 971.17~~ subch. III of ch. 975, or a case under ch. 48, 51, 55, 938,  
2 or 980.

3 **SECTION 218.** 809.30 (2) (a) of the statutes is amended to read:

4 809.30 (2) (a) *Appeal procedure; counsel to continue.* A person seeking  
5 postconviction relief in a criminal case; a person seeking postdisposition relief in a  
6 case under ch. 48 other than a termination of parental rights case under s. 48.43 or  
7 a parental consent to abortion case under s. 48.375 (7); or a person seeking  
8 postdisposition relief in a ~~s. 971.17~~ proceeding under subch. III of ch. 975 or in a case  
9 under ch. 51, 55, 938, or 980 shall comply with this section. Counsel representing  
10 the person at sentencing or at the time of the final adjudication shall continue  
11 representation by filing a notice under par. (b) if the person desires to pursue  
12 postconviction or postdisposition relief unless counsel is discharged by the person or  
13 allowed to withdraw by the circuit court before the notice must be filed.

14 **SECTION 219.** 809.30 (2) (m) of the statutes is created to read:

15 809.30 (2) (m) *Entry after filing notice.* If the record discloses that the judgment  
16 or order appealed from was entered after the notice under this section was filed, the  
17 notice shall be treated as filed after that entry on the day of the entry.

18 **SECTION 220.** 809.31 (6) of the statutes is amended to read:

19 809.31 (6) The court ordering release shall require the defendant to post a bond  
20 in accordance with s. ~~969.09~~ 974.09 (2) and may impose other terms and conditions.  
21 The defendant shall file the bond in the trial court.

22 **SECTION 221.** 814.22 (1) (intro.) of the statutes is amended to read:

23 814.22 (1) (intro.) In all proceedings, including criminal actions, if a change of  
24 venue is had ~~(, except in cases where the change of venue is made because the action~~  
25 ~~was not brought in the proper county),~~ if the jury is selected for use in another county

**ASSEMBLY BILL 383**

1 under s. ~~971.225~~ 971.71, or if an action, occupying a day or more, is tried outside the  
2 county wherein pending, the county in which the action was commenced shall pay  
3 to the county in which the action is tried or the jury is selected the following expenses  
4 arising out of the change of venue or jury selection:

5 **SECTION 222.** 814.69 (1) (a) of the statutes is amended to read:

6 814.69 (1) (a) For a transcript under SCR 71.04, a fee at the rate of \$1.50 per  
7 25-line page for the original and 50 cents per 25-line page for the duplicate. Except  
8 as provided in s. ~~967.06 (3)~~ 977.072, the fee shall be paid by the county treasurer upon  
9 the certificate of the clerk of court.

10 **SECTION 223.** 885.01 (2) of the statutes is amended to read:

11 885.01 (2) By an attorney of record in a criminal action, or by the attorney  
12 general or any district attorney or person acting in his or her stead, to require the  
13 attendance of witnesses, ~~in behalf of the state,~~ a witness for a deposition, or for a  
14 hearing or trial in any court or before any magistrate, and from any part of the state.

15 **SECTION 224.** 885.15 (2) of the statutes is amended to read:

16 885.15 (2) The immunity provided under sub. (1) is subject to the restrictions  
17 under s. ~~972.085~~ 967.18.

18 **SECTION 225.** 885.24 (2) of the statutes is amended to read:

19 885.24 (2) The immunity provided under sub. (1) is subject to the restrictions  
20 under s. ~~972.085~~ 967.18.

21 **SECTION 226.** 885.25 (2m) of the statutes is amended to read:

22 885.25 (2m) The immunity provided under sub. (2) is subject to the restrictions  
23 under s. ~~972.085~~ 967.18.

24 **SECTION 227.** 885.365 (1) of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           885.365 (1) Evidence obtained as the result of the use of voice recording  
2 equipment for recording of telephone conversations, by way of interception of a  
3 communication or in any other manner, shall be totally inadmissible in the courts of  
4 this state in civil actions, except as provided in ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405.

5           **SECTION 228.** 885.64 (2) of the statutes is amended to read:

6           885.64 (2) All circuit court proceedings, with the exception of proceedings  
7 pursuant to s. ~~972.11 (2m)~~ 972.20, that are conducted by videoconference, interactive  
8 video and audio transmission, audiovisual means, live audiovisual means,  
9 closed-circuit audiovisual, or other interactive electronic communication with a  
10 video component, shall be conducted in accordance with the provisions of this  
11 subchapter.

12           **SECTION 229.** 891.39 (1) (b) of the statutes is amended to read:

13           891.39 (1) (b) In actions affecting the family, in which the question of paternity  
14 is raised, and in paternity proceedings, the court, upon being satisfied that the  
15 parties to the action are unable to adequately compensate any such guardian ad  
16 litem for the guardian ad litem's services and expenses, shall then make an order  
17 specifying the guardian ad litem's compensation and expenses, which compensation  
18 and expenses shall be paid as provided in s. ~~967.06~~ 767.407 (6). If the court orders  
19 a county to pay the compensation of the guardian ad litem, the amount ordered may  
20 not exceed the compensation paid to private attorneys under s. 977.08 (4m) (b).

21           **SECTION 230.** 891.39 (2) (b) of the statutes is amended to read:

22           891.39 (2) (b) The immunity provided under par. (a) is subject to the restrictions  
23 under s. ~~972.085~~ 967.18.

24           **SECTION 231.** 893.93 (1) (d) of the statutes is amended to read:

25           893.93 (1) (d) An action under s. ~~968.31~~ 968.345.

**ASSEMBLY BILL 383**

1           **SECTION 232.** 895.01 (1) (am) 7. of the statutes is amended to read:

2           895.01 (1) (am) 7. Causes of action for a violation of s. ~~968.31~~ 968.345 (2m) or  
3 other damage to the person.

4           **SECTION 233.** 895.34 of the statutes is amended to read:

5           **895.34 Renewal of sureties upon becoming insufficient and effects**  
6 **thereof.** If any bail bond, recognizance, undertaking or other bond or undertaking  
7 given in any civil or criminal action or proceeding, becomes at any time insufficient,  
8 the court or judge thereof, municipal judge or any magistrate before whom such  
9 action or proceeding is pending, may, upon notice, require the plaintiff or defendant  
10 to give a new bond, recognizance or undertaking. Every person becoming surety on  
11 any such new bond, recognizance or undertaking is liable from the time the original  
12 was given, the same as if he or she had been the original surety. If any person fails  
13 to comply with the order made in the case the adverse party is entitled to any order,  
14 judgment, remedy or process to which he or she would have been entitled had no  
15 bond, recognizance or undertaking been given at any time. This section does not  
16 apply to a modification of a condition of release under s. 969.33 (7).

17           **SECTION 234.** 895.446 (4) of the statutes is amended to read:

18           895.446 (4) Any recovery under this section shall be reduced by the amount  
19 recovered as restitution under ss. 800.093 and 973.20 and ch. 938 for the same act  
20 or as recompense under s. ~~969.13 (5) (a)~~ 969.42 for the same act.

21           **SECTION 235.** 895.45 (1) (a) of the statutes is amended to read:

22           895.45 (1) (a) "Abusive conduct" means domestic abuse, as defined under s.  
23 49.165 (1) (a), 813.12 (1) (am), or ~~968.075~~ 969.27 (1) (a), harassment, as defined under  
24 s. 813.125 (1), sexual exploitation by a therapist under s. 940.22, sexual assault

**ASSEMBLY BILL 383**

1 under s. 940.225, child abuse, as defined under s. 813.122 (1) (a), or child abuse under  
2 ss. 948.02 to 948.11.

3 **SECTION 236.** 895.46 (9) (a) (intro.) and 2. and (b) (intro.) and 2. of the statutes  
4 are amended to read:

5 895.46 (9) (a) (intro.) The state shall reimburse a state officer or state employee  
6 for reasonable attorney fees and costs incurred by the officer or employee in  
7 connection with a John Doe proceeding under s. ~~968.26~~ 968.105 (2) arising from the  
8 officer's or employee's conduct in the performance of official duties if all the following  
9 apply:

10 2. The officer or employee is not convicted of a crime arising from the conduct  
11 that is the subject of any criminal complaint issued under s. ~~968.26~~ 968.105 (2) (d).

12 (b) (intro.) The state shall reimburse a state officer or state employee for  
13 reasonable attorney fees and costs incurred by the officer or employee in defending  
14 a criminal complaint issued under s. ~~968.26~~ 968.105 (2) (d) arising from the officer's  
15 or employee's conduct in the performance of official duties if all of the following apply:

16 2. The officer or employee is not convicted of a crime arising from the conduct  
17 that is the subject of the criminal complaint issued under s. ~~968.26~~ 968.105 (2) (d).

18 **SECTION 237.** 895.54 of the statutes is amended to read:

19 **895.54 Liability exemption; notification of release.** A person is immune  
20 from any liability regarding any act or omission regarding the notification of any  
21 applicable office or person under s. 51.37 (10), 304.06 (1), ~~971.17 (4m) or (6m)~~ 975.62,  
22 or 980.11. This section does not apply to willful or wanton acts or omissions.

23 **SECTION 238.** 901.01 of the statutes is amended to read:

24 **901.01 Scope.** Chapters 901 to 911 govern proceedings in the courts of the  
25 state of Wisconsin except as provided in ss. 911.01 and ~~972.11~~ 967.24.



**ASSEMBLY BILL 383**

1           **SECTION 239.** 901.04 (1) of the statutes is amended to read:

2           901.04 (1) **QUESTIONS OF ADMISSIBILITY GENERALLY.** Preliminary questions  
3 concerning the qualification of a person to be a witness, the existence of a privilege,  
4 or the admissibility of evidence shall be determined by the judge, subject to sub. (2)  
5 and ss. ~~971.31 (11) and 972.11 (2)~~ 346.63 (8), 904.045, 940.22 (6), and 971.65 (6). In  
6 making the determination the judge is bound by the rules of evidence only with  
7 respect to privileges and as provided in s. 901.05.

8           **SECTION 240.** 901.04 (3) (cm) of the statutes is amended to read:

9           901.04 (3) (cm) Admissibility of evidence specified in s. ~~972.11 (2) (d)~~ 904.045  
10 (4).

11           **SECTION 241.** 901.05 (3) of the statutes is amended to read:

12           901.05 (3) The results of a test or tests under s. 938.296 (4) or (5) or ~~968.38~~  
13 968.725 (4) or (5) and the fact that a person has been ordered to submit to such a test  
14 or tests under s. 938.296 (4) or (5) or ~~968.38~~ 968.725 (4) or (5) are not admissible  
15 during the course of a civil or criminal action or proceeding or an administrative  
16 proceeding.

17           **SECTION 242.** 904.04 (1) (b) of the statutes is amended to read:

18           904.04 (1) (b) *Character of victim.* Except as provided in s. ~~972.11 (2)~~ 904.045,  
19 evidence of a pertinent trait of character of the victim of the crime offered by an  
20 accused, or by the prosecution to rebut the same, or evidence of a character trait of  
21 peacefulness of the victim offered by the prosecution in a homicide case to rebut  
22 evidence that the victim was the first aggressor;

23           **SECTION 243.** 904.045 (title) of the statutes is created to read:

24           **904.045 (title) Evidence of sexual conduct.**

25           **SECTION 244.** 904.06 (1) of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           904.06 (1) ADMISSIBILITY. Except as provided in s. ~~972.11 (2)~~ 904.045, evidence  
2 of the habit of a person or of the routine practice of an organization, whether  
3 corroborated or not and regardless of the presence of eyewitnesses, is relevant to  
4 prove that the conduct of the person or organization on a particular occasion was in  
5 conformity with the habit or routine practice.

6           **SECTION 245.** 906.08 (1) (intro.) of the statutes is amended to read:

7           906.08 (1) OPINION AND REPUTATION EVIDENCE OF CHARACTER. (intro.) Except as  
8 provided in s. ~~972.11 (2)~~ 904.045, the credibility of a witness may be attacked or  
9 supported by evidence in the form of reputation or opinion, but subject to the  
10 following limitations:

11           **SECTION 246.** 906.08 (2) of the statutes is amended to read:

12           906.08 (2) SPECIFIC INSTANCES OF CONDUCT. Specific instances of the conduct of  
13 a witness, for the purpose of attacking or supporting the witness's credibility, other  
14 than a conviction of a crime or an adjudication of delinquency as provided in s.  
15 906.09, may not be proved by extrinsic evidence. They may, however, subject to s.  
16 ~~972.11 (2)~~ 904.045, if probative of truthfulness or untruthfulness and not remote in  
17 time, be inquired into on cross-examination of the witness or on cross-examination  
18 of a witness who testifies to his or her character for truthfulness or untruthfulness.

19           **SECTION 247.** 907.06 (5) of the statutes is amended to read:

20           907.06 (5) APPOINTMENT IN CRIMINAL CASES. This section shall not apply to the  
21 appointment of experts as provided by s. ~~971.16~~ 975.51.

22           **SECTION 248.** 908.08 (5) (am) of the statutes is amended to read:

23           908.08 (5) (am) The testimony of a child under par. (a) may be taken in  
24 accordance with s. ~~972.11 (2m)~~ 972.20, if applicable.

25           **SECTION 249.** 908.08 (5) (b) of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           908.08 (5) (b) If a recorded statement under this section is shown at a  
2 preliminary examination hearing under s. ~~970.03~~ 971.75 (2) and the party who offers  
3 the statement does not call the child to testify, the court may not order under par. (a)  
4 that the child be produced for cross-examination ~~at the preliminary examination.~~

5           **SECTION 250.** 908.08 (6) of the statutes is amended to read:

6           908.08 (6) Recorded oral statements of children under this section in the  
7 possession, custody, or control of the state are discoverable under ss. 48.293 (3),  
8 304.06 (3d), ~~971.23 (1) (e)~~ 971.43 (2) (f), and 973.10 (2g).

9           **SECTION 251.** 911.01 (1) of the statutes is amended to read:

10           911.01 (1) COURTS AND COURT COMMISSIONERS. Chapters 901 to 911 apply to the  
11 courts of the state of Wisconsin, including municipal courts and circuit,  
12 supplemental, and municipal court commissioners, in the proceedings and to the  
13 extent hereinafter set forth except as provided in s. ~~972.11~~ 967.24. The word “judge”  
14 in chs. 901 to 911 means judge of a court of record, municipal judge, or circuit,  
15 supplemental, or municipal court commissioner.

16           **SECTION 252.** 911.01 (4) (b) of the statutes is amended to read:

17           911.01 (4) (b) *Grand jury; John Doe proceedings.* Proceedings before grand  
18 juries or a John Doe proceeding under s. ~~968.26~~ 968.105.

19           **SECTION 253.** 911.01 (4) (c) of the statutes is amended to read:

20           911.01 (4) (c) *Miscellaneous proceedings.* Proceedings for extradition or  
21 rendition; sentencing, granting or revoking probation, modification of a bifurcated  
22 sentence under s. 302.113 (9g), adjustment of a bifurcated sentence under s. 973.195  
23 (1r) or 973.198; issuance of subpoenas or warrants under s. 968.375, arrest warrants,  
24 criminal summonses, and search warrants; hearings under s. 980.09 (2); proceedings  
25 under s. ~~971.14 (1r) (e)~~ 975.31; proceedings with respect to pretrial release under ch.

**ASSEMBLY BILL 383**

1 969 except where habeas corpus is utilized with respect to release on bail ~~or~~  
2 conditions as otherwise provided in ch. 969; proceedings with respect to release on  
3 bond under s. 974.09 pending appeal; or proceedings under s. 165.76 (6) to compel  
4 provision of a biological specimen for deoxyribonucleic acid analysis.

5 **SECTION 254.** 938.18 (10) of the statutes is created to read:

6 938.18 (10) DISPOSITION OPTIONS; CERTAIN JUVENILES YOUNGER THAN 15. If a court  
7 of criminal jurisdiction has jurisdiction over a juvenile for a violation as a result of  
8 a waiver under sub. (1) (a) or (b) and the juvenile is alleged to have committed the  
9 violation before he or she has attained the age of 15, the court shall proceed as  
10 follows:

11 (a) If the juvenile is convicted of an offense for which jurisdiction over the  
12 juvenile could not have been waived under sub. (1) (a) or (b), the court shall adjudge  
13 the juvenile to be delinquent and impose a disposition specified in s. 938.34.

14 (b) If the juvenile is convicted of an offense other than the offense charged and  
15 the offense for which the juvenile is convicted is an offense for which jurisdiction over  
16 the juvenile may be waived under sub. (1) (a) or (b) and the court, after considering  
17 the criteria specified in sub. (5), determines that the juvenile has proved by clear and  
18 convincing evidence that it would be in the best interests of the juvenile and of the  
19 public to adjudge the juvenile to be delinquent, the court may impose a disposition  
20 specified in s. 938.34.

21 **SECTION 255.** 938.183 (1) (ar) of the statutes is amended to read:

22 938.183 (1) (ar) A juvenile specified in par. (a) or (am) who is alleged to have  
23 attempted or committed a violation of any state criminal law in addition to the  
24 violation alleged under par. (a) or (am) if the violation alleged under this paragraph

**ASSEMBLY BILL 383**

1 and the violation alleged under par. (a) or (am) may be joined under s. ~~971.12 (1)~~  
2 970.13.

3 **SECTION 256.** 938.183 (1m) (b) of the statutes is amended to read:

4 938.183 (**1m**) (b) If a court of criminal jurisdiction transfers jurisdiction under  
5 s. ~~970.032 971.75 (5)~~ or ~~971.31 (13)~~ 971.77 to a court assigned to exercise jurisdiction  
6 under this chapter and ch. 48, the juvenile is subject to the procedures and  
7 dispositions specified in ~~subch.~~ subchs. IV to VI.

8 **SECTION 257.** 938.195 (1) (a) of the statutes is amended to read:

9 938.195 (**1**) (a) "Custodial interrogation" has the meaning ~~give~~ given in s.  
10 ~~968.073 969.165~~ (1) (a).

11 **SECTION 258.** 938.21 (2) (f) of the statutes is created to read:

12 938.21 (**2**) (f) At a hearing under this section, the representative of the public  
13 designated under s. 938.09 shall disclose, if in his or her possession, law enforcement  
14 investigative reports relating to the case.

15 **SECTION 259.** 938.293 (2) of the statutes is amended to read:

16 938.293 (**2**) RECORDS RELATING TO JUVENILE. All records relating to a juvenile  
17 which are relevant to the subject matter of a proceeding under this chapter shall be  
18 open to inspection by a guardian ad litem or counsel for any party, upon demand and  
19 upon presentation of releases where necessary, at least 48 hours before the  
20 proceeding. Persons entitled to inspect the records may obtain copies of the records  
21 with the permission of the custodian of the records or with the permission of the  
22 court. The court may instruct counsel not to disclose specified items in the materials  
23 to the juvenile or the parent if the court reasonably believes that the disclosure would  
24 be harmful to the interests of the juvenile. ~~Section 971.23~~ Subchapter IV of ch. 971  
25 shall be applicable in all delinquency proceedings under this chapter, except that the

**ASSEMBLY BILL 383**

1 court shall establish the timetable for the disclosures required under ~~s. 971.23 (1),~~  
2 ~~(2m), (8), and (9)~~ ss. 971.43, 971.44, 971.45, 971.46, and 971.47.

3 **SECTION 260.** 938.30 (2) of the statutes is amended to read:

4 938.30 (2) INFORMATION TO JUVENILE AND PARENTS; BASIC RIGHTS; SUBSTITUTION.

5 At or before the commencement of the hearing under this section the juvenile and  
6 the parent, guardian, legal custodian, or Indian custodian shall be advised of their  
7 rights as specified in s. 938.243 and shall be informed that the hearing shall be to the  
8 court and that a request for a substitution of judge under s. 938.29 must be made  
9 before the end of the plea hearing or is waived. At the hearing, the district attorney  
10 shall disclose, if in his or her possession, law enforcement investigative reports  
11 relating to the case. Nonpetitioning parties, including the juvenile, shall be granted  
12 a continuance of the plea hearing if they wish to consult with an attorney on the  
13 request for a substitution of a judge.

14 **SECTION 261.** 938.30 (5) (c) (intro.) of the statutes is amended to read:

15 938.30 (5) (c) (intro.) If the court finds that the juvenile was not responsible by  
16 reason of mental disease or defect, as described under s. ~~971.15~~ 975.50 (1) and (2),  
17 the court shall dismiss the petition with prejudice and do one of the following:

18 **SECTION 262.** 938.30 (5) (d) (intro.) of the statutes is amended to read:

19 938.30 (5) (d) (intro.) If the court finds that the juvenile is not competent to  
20 proceed, as described in s. ~~971.13~~ 975.30 (1) and (2), the court shall suspend  
21 proceedings on the petition and do one of the following:

22 **SECTION 263.** 938.30 (5) (e) 1. (intro.) of the statutes is amended to read:

23 938.30 (5) (e) 1. (intro.) A juvenile who is not competent to proceed, as described  
24 in s. ~~971.13~~ 975.30 (1) and (2), but who is likely to become competent to proceed  
25 within 12 months or within the time period of the maximum sentence that may be

**ASSEMBLY BILL 383**

1 imposed on an adult for the most serious delinquent act with which the juvenile is  
2 charged, whichever is less, and who is committed under s. 51.20 following an order  
3 under par. (d) 1. or who is placed under a dispositional order following an order under  
4 par. (d) 2., shall be periodically reexamined with written reports of those  
5 reexaminations to be submitted to the court every 3 months and within 30 days  
6 before the expiration of the juvenile's commitment or dispositional order. Each  
7 report shall indicate one of the following:

8 **SECTION 264.** 938.31 (2) of the statutes is amended to read:

9 938.31 (2) HEARING TO THE COURT; PROCEDURES. The hearing shall be to the court.  
10 If the hearing involves a child victim, as defined in s. 938.02 (20m) (a) 1., or a child  
11 witness, as defined in s. 950.02 (5), the court may order that a deposition be taken  
12 by audiovisual means and allow the use of a recorded deposition under s. ~~967.04 (7)~~  
13 ~~to (10) and, with the district attorney, shall comply with s. 971.105~~ 967.22. At the  
14 conclusion of the hearing, the court shall make a determination of the facts. If the  
15 court finds that the juvenile is not within the jurisdiction of the court or the court  
16 finds that the facts alleged in the petition or citation have not been proved, the court  
17 shall dismiss the petition or citation with prejudice.

18 **SECTION 265.** 938.31 (3) (a) 4. of the statutes is amended to read:

19 938.31 (3) (a) 4. "Statement" has the meaning given in s. ~~972.115~~ 972.18 (1) (d).

20 **SECTION 266.** 938.31 (3) (d) of the statutes is amended to read:

21 938.31 (3) (d) Notwithstanding ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405, a  
22 juvenile's lack of consent to having an audio or audio and visual recording made of  
23 a custodial interrogation does not affect the admissibility in evidence of an audio or  
24 audio and visual recording of a statement made by the juvenile during the  
25 interrogation.

**ASSEMBLY BILL 383**

1           **SECTION 267.** 938.315 (2) of the statutes is amended to read:

2           938.315 (2) CONTINUANCE FOR GOOD CAUSE. A continuance may be granted by  
3 the court only upon a showing of good cause in open court or during a telephone  
4 conference under s. 807.13 on the record and only for so long as is necessary, taking  
5 into account the request or consent of the representative of the public under s. 938.09  
6 or the parties, the interests of the victims, and the interest of the public in the prompt  
7 disposition of cases. In ruling on any motion or other request for a continuance or  
8 delay of the proceedings, the court shall also consider and give weight to any adverse  
9 impact the delay or continuance may have on the well-being of a victim or a witness,  
10 as defined in s. 950.02 (5), if the victim or witness is a child. In addition, if a victim  
11 or a witness is a child, the court and the representative of the public under s. 938.09  
12 shall take appropriate action to ensure speedy proceedings in order to minimize the  
13 time during which the child must endure the stress of his or her involvement in the  
14 proceedings.

15           **SECTION 268.** 938.35 (1) (cm) of the statutes is amended to read:

16           938.35 (1) (cm) In a court of civil or criminal jurisdiction for purposes of setting  
17 bail under s. 974.09 or ch. 969 or impeaching a witness under s. 906.09.

18           **SECTION 269.** 938.396 (1) (a) of the statutes is amended to read:

19           938.396 (1) (a) *Confidentiality.* Law enforcement agency records of juveniles  
20 shall be kept separate from records of adults. Law enforcement agency records of  
21 juveniles may not be open to inspection or their contents disclosed except under par.  
22 (b) or (c), sub. (1j), (2m) (c) 1p., or (10), or s. 938.21 (2) (f), 938.293, or 938.30 (2) or  
23 by order of the court.

24           **SECTION 270.** 938.396 (2g) (dr) of the statutes is amended to read:



**ASSEMBLY BILL 383**

1           938.396 **(2g)** (dr) *Presentence investigation*. Upon request of the department  
2 of corrections or any other person preparing a presentence investigation under s.  
3 ~~972.15~~ 973.004 to review court records for the purpose of preparing the presentence  
4 investigation, the court shall open for inspection by any authorized representative  
5 of the requester the records of the court relating to any juvenile who has been the  
6 subject of a proceeding under this chapter.

7           **SECTION 271.** 938.535 of the statutes is amended to read:

8           **938.535 Early release and intensive supervision program; limits.** The  
9 department may establish a program for the early release and intensive supervision  
10 of juveniles who have been placed in a juvenile correctional facility or a secured  
11 residential care center for children and youth under s. 938.183 or 938.34 (4m). The  
12 program may not include any juveniles who have been placed in a juvenile  
13 correctional facility or a secured residential care center for children and youth as a  
14 result of a delinquent act involving the commission of a violent crime as defined in  
15 s. ~~969.035~~ 969.43, but not including the crime specified in s. 948.02 (1).

16           **SECTION 272.** 938.78 (2) (d) 1. of the statutes is amended to read:

17           938.78 **(2)** (d) 1. The subject of a presentence investigation under s. ~~972.15~~  
18 973.004.

19           **SECTION 273.** 939.60 of the statutes is amended to read:

20           **939.60 Felony and misdemeanor defined.** ~~A crime punishable by~~  
21 ~~imprisonment in the Wisconsin state prisons is a felony~~ “Felony” has the meaning  
22 given in s. 967.025 (11). Every other crime is a misdemeanor.

23           **SECTION 274.** 939.615 (2) (a) of the statutes is amended to read:

24           939.615 **(2)** (a) Except as provided in par. (b), if a person is convicted of a serious  
25 sex offense or found not guilty of a serious sex offense by reason of mental disease

**ASSEMBLY BILL 383**

1 or defect, the court may, in addition to sentencing the person, placing the person on  
2 probation or, if applicable, committing the person under s. ~~971.17 subch. III of ch.~~  
3 975, place the person on lifetime supervision by the department if notice concerning  
4 lifetime supervision was given to the person under s. 973.125 and if the court  
5 determines that lifetime supervision of the person is necessary to protect the public.

6 **SECTION 275.** 939.615 (3) (d) of the statutes is amended to read:

7 939.615 (3) (d) If the person has been committed to the department of health  
8 services under s. ~~971.17 subch. III of ch. 975~~ for the serious sex offense, upon the  
9 termination of his or her commitment under s. ~~971.17 (5) 975.60~~ or his or her  
10 discharge from the commitment under s. ~~971.17 (6) 975.61~~, whichever is applicable.

11 **SECTION 276.** 939.621 (1) (a) of the statutes is amended to read:

12 939.621 (1) (a) A person who commits, during the 72 hours immediately  
13 following an arrest for a domestic abuse incident as set forth in s. ~~968.075 969.27~~ (5),  
14 an act of domestic abuse, as defined in s. ~~968.075 969.27~~ (1) (a) that constitutes the  
15 commission of a crime. For the purpose of the definition under this paragraph, the  
16 72-hour period applies whether or not there has been a waiver by the victim under  
17 s. ~~968.075 969.27~~ (5) (c).

18 **SECTION 277.** 939.621 (2) of the statutes is amended to read:

19 939.621 (2) If a person commits an act of domestic abuse, as defined in s.  
20 ~~968.075 969.27~~ (1) (a) and the act constitutes the commission of a crime, the  
21 maximum term of imprisonment for that crime may be increased by not more than  
22 2 years if the person is a domestic abuse repeater. The victim of the domestic abuse  
23 crime does not have to be the same as the victim of the domestic abuse incident that  
24 resulted in the prior arrest or conviction. The penalty increase under this section  
25 changes the status of a misdemeanor to a felony.

**ASSEMBLY BILL 383**

1           **SECTION 278.** 939.74 (1) of the statutes is amended to read:

2           939.74 (1) Except as provided in subs. (2) and (2d) and s. 946.88 (1), prosecution  
3 for a felony must be commenced within 6 years and prosecution for a misdemeanor  
4 or for adultery within 3 years after the commission thereof. Within the meaning of  
5 this section, a prosecution has commenced when ~~a warrant or summons is issued,~~ an  
6 indictment is found, ~~or an information~~ a complaint is filed.

7           **SECTION 279.** 939.74 (3) of the statutes is amended to read:

8           939.74 (3) In computing the time limited by this section, the time during which  
9 the actor was not publicly a resident within this state or during which a prosecution  
10 against the actor for the same act was pending shall not be included. A prosecution  
11 is pending when ~~a warrant or a summons has been issued,~~ an indictment has been  
12 found, ~~or an information~~ a complaint has been filed.

13           **SECTION 280.** 939.74 (4) of the statutes is amended to read:

14           939.74 (4) In computing the time limited by this section, the time during which  
15 an alleged victim under s. 940.22 (2) is unable to seek the issuance filing of a  
16 complaint under s. ~~968.02~~ 970.08 due to the effects of the sexual contact or due to any  
17 threats, instructions or statements from the therapist shall not be included.

18           **SECTION 281.** 940.09 (1m) (a) of the statutes is amended to read:

19           940.09 (1m) (a) A person may be charged with and a prosecutor may proceed  
20 upon ~~an information~~ a complaint based upon a violation of any combination of sub.  
21 (1) (a), (am), or (b); any combination of sub. (1) (a), (am), or (bm); any combination of  
22 sub. (1) (c), (cm), or (d); any combination of sub. (1) (c), (cm), or (e); any combination  
23 of sub. (1g) (a), (am), or (b) ~~or~~; or any combination of sub. (1g) (c), (cm), or (d) for acts  
24 arising out of the same incident or occurrence.

25           **SECTION 282.** 940.09 (1m) (b) of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           940.09 (1m) (b) If a person is charged in ~~an information~~ a complaint with any  
2 of the combinations of crimes referred to in par. (a), the crimes shall be joined under  
3 s. ~~971.12~~ 970.13. If the person is found guilty of more than one of the crimes so  
4 charged for acts arising out of the same incident or occurrence, there shall be a single  
5 conviction for purposes of sentencing and for purposes of counting convictions under  
6 s. 23.33 (13) (b) 2. and 3., under s. 30.80 (6) (a) 2. and 3., under s. 343.307 (1) or under  
7 s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am), (b), (bm), (c), (cm), (d), and (e) each  
8 require proof of a fact for conviction which the others do not require, and sub. (1g)  
9 (a), (am), (b), (c), (cm), and (d) each require proof of a fact for conviction which the  
10 others do not require.

11           **SECTION 283.** 940.225 (4) (intro.) of the statutes is amended to read:

12           940.225 (4) CONSENT. (intro.) “Consent”, as used in this section, means words  
13 or overt actions by a person who is competent to give informed consent indicating a  
14 freely given agreement to have sexual intercourse or sexual contact. Consent is not  
15 an issue in alleged violations of sub. (2) (c), (cm), (d), (g), (h), and (i). The following  
16 persons are presumed incapable of consent but the presumption may be rebutted by  
17 competent evidence, subject to the provisions of s. ~~972.11 (2)~~ 904.045:

18           **SECTION 284.** 940.25 (1m) (a) of the statutes is amended to read:

19           940.25 (1m) (a) A person may be charged with and a prosecutor may proceed  
20 upon ~~an information~~ a complaint based upon a violation of any combination of sub.  
21 (1) (a), (am), or (b); any combination of sub. (1) (a), (am), or (bm); any combination of  
22 sub. (1) (c), (cm), or (d); or any combination of sub. (1) (c), (cm), or (e) for acts arising  
23 out of the same incident or occurrence.

24           **SECTION 285.** 940.25 (1m) (b) of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           940.25 **(1m)** (b) If a person is charged in ~~an information~~ a complaint with any  
2 of the combinations of crimes referred to in par. (a), the crimes shall be joined under  
3 s. ~~971.12~~ 970.13. If the person is found guilty of more than one of the crimes so  
4 charged for acts arising out of the same incident or occurrence, there shall be a single  
5 conviction for purposes of sentencing and for purposes of counting convictions under  
6 s. 23.33 (13) (b) 2. and 3., under s. 30.80 (6) (a) 2. or 3., under ss. 343.30 (1q) and  
7 343.305 or under s. 350.11 (3) (a) 2. and 3. Subsection (1) (a), (am), (b), (bm), (c), (cm),  
8 (d), and (e) each require proof of a fact for conviction which the others do not require.

9           **SECTION 286.** 940.32 (2m) (d) of the statutes is amended to read:

10           940.32 **(2m)** (d) The person violates s. ~~968.31~~ 968.345 (1) or ~~968.34~~ 968.376 (1)  
11 in order to facilitate the violation.

12           **SECTION 287.** 940.48 (intro.) of the statutes is amended to read:

13           **940.48 Violation of court orders.** (intro.) Whoever violates an order issued  
14 under s. 940.47 or violates any condition of a bond required under s. 969.33 (4) (d)  
15 may be punished as follows:

16           **SECTION 288.** 940.49 of the statutes is repealed.

17           **SECTION 289.** 941.28 (5) of the statutes is amended to read:

18           941.28 **(5)** Any firearm seized under this section is subject to s. ~~968.20~~ (3)  
19 175.27 (1) and is presumed to be contraband.

20           **SECTION 290.** 941.29 (3) of the statutes is amended to read:

21           941.29 **(3)** Any firearm involved in an offense under sub. (2) is subject to s.  
22 ~~968.20 (3)~~ 175.27 (1).

23           **SECTION 291.** 943.245 (3m) of the statutes is amended to read:

24           943.245 **(3m)** Any recovery under this section shall be reduced by the amount  
25 recovered as restitution for the same act under ss. 800.093 and 973.20 or as

**ASSEMBLY BILL 383**

1 recompense under s. ~~969.13 (5) (a)~~ 969.42 for the same act and by any amount  
2 collected in connection with the act and paid to the plaintiff under a deferred  
3 prosecution agreement under s. 971.41.

4 **SECTION 292.** 943.51 (3r) of the statutes is amended to read:

5 943.51 (**3r**) Any recovery under this section shall be reduced by the amount  
6 recovered as restitution for the same act under ss. 800.093 and 973.20 or as  
7 recompense under s. ~~969.13 (5) (a)~~ 969.42 for the same act.

8 **SECTION 293.** 946.42 (3) (g) of the statutes is amended to read:

9 946.42 (**3**) (g) Committed to the department of health services under ch. 971  
10 975, 2011 stats., or ch. 975.

11 **SECTION 294.** 946.49 (1) (intro.) of the statutes is amended to read:

12 946.49 (**1**) (intro.) Whoever, having been released from custody under s. 974.09  
13 or ch. 969, intentionally fails to comply with the terms of his or her bond is:

14 **SECTION 295.** 946.49 (2) of the statutes is amended to read:

15 946.49 (**2**) A witness for whom ~~bail has been required~~ conditions of release have  
16 been set under s. ~~969.01 (3)~~ 969.52 is guilty of a Class I felony for failure to appear  
17 as provided.

18 **SECTION 296.** 946.52 of the statutes, as affected by 2013 Wisconsin Act 20,  
19 section 1922, is amended to read:

20 **946.52 Failure to submit biological specimen.** Whoever intentionally fails  
21 to comply with a requirement to submit a biological specimen under s. 165.76, 165.84  
22 (7), 938.21 (1m), 938.30 (2m), 938.34 (15), ~~970.02 (8)~~ 971.027 (7), 973.047, or 980.063  
23 is guilty of a Class A misdemeanor.

24 **SECTION 297.** 946.60 (1) of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           946.60 (1) Whoever intentionally destroys, alters, mutilates, conceals,  
2 removes, withholds, or transfers possession of a document or other object, knowing  
3 that a subpoena has been issued for the document has been subpoenaed or other  
4 object by a court ~~or~~, by or at the request of a district attorney or the attorney general,  
5 or by an attorney of record in a criminal case or a case under ch. 938 or 980, is guilty  
6 of a Class I felony.

7           **SECTION 298.** 946.86 (2) of the statutes is amended to read:

8           946.86 (2) Any criminal complaint alleging violation of s. 946.83 or 946.85 shall  
9 allege the extent of property subject to forfeiture under this section. At trial, the trier  
10 of fact shall return a special verdict determining the extent of property, if any, to be  
11 subject to forfeiture under this section. When a special verdict contains a finding of  
12 property subject to a forfeiture under this section, a judgment of criminal forfeiture  
13 shall be entered along with the judgment of conviction under s. ~~972.13~~ 972.28.

14           **SECTION 299.** 946.87 (2) (am) of the statutes is amended to read:

15           946.87 (2) (am) Notwithstanding par. (a), property described in par. (a) is  
16 subject to forfeiture if the person who violated s. 946.83 or 946.85 has not been  
17 convicted, but he or she is a defendant in a criminal proceeding, is released, pending  
18 trial, ~~on bail, as defined in s. 969.001~~ conditions under ch. 969, and fails to appear  
19 in court regarding the criminal proceeding. However, before making the final  
20 determination of any action under this section, the court must determine that the  
21 party bringing the action can prove the person committed the violation of s. 946.83  
22 or 946.85.

23           **SECTION 300.** 948.015 (9) of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           948.015 **(9)** A crime that involves an act of domestic abuse, as defined in s.  
2           ~~968.075~~ 969.27 (1) (a), if the court includes in its reasoning under s. 973.017 (10m)  
3           for its sentencing decision the aggravating factor under s. 973.017 (6m).

4           **SECTION 301.** 948.31 (5) of the statutes is amended to read:

5           948.31 **(5)** The venue of an action under this section is prescribed in s. ~~971.19~~  
6           970.14 (8).

7           **SECTION 302.** 948.50 (4) (c) of the statutes is amended to read:

8           948.50 **(4)** (c) Is committed, transferred, or admitted under ch. ~~975, 2011 stats.,~~  
9           or ch. 51, 971 or 975.

10          **SECTION 303.** 948.50 (5) of the statutes is amended to read:

11          948.50 **(5)** This section does not apply to any law enforcement officer  
12          conducting a strip search under s. ~~968.255~~ 968.585.

13          **SECTION 304.** 949.165 (1) (a) of the statutes is amended to read:

14          949.165 **(1)** (a) "Serious crime" has the meaning designated in s. ~~969.08 (10)~~  
15          969.51 (7) (b) and includes solicitation, conspiracy or attempt to commit a serious  
16          crime.

17          **SECTION 305.** 949.165 (9) of the statutes is amended to read:

18          949.165 **(9)** INTERPLEADER. If a court determines that a person accused of a  
19          serious crime is incompetent to proceed under s. ~~971.14~~ 975.34 or if the charges are  
20          dismissed without prejudice, the department shall bring an action of interpleader to  
21          determine the disposition of the escrow account.

22          **SECTION 306.** 950.04 (1v) (b) of the statutes is amended to read:

23          950.04 **(1v)** (b) To attend court proceedings in the case, subject to ss. 906.15 and  
24          938.299 (1). The court may require the victim to exercise his or her right under this  
25          paragraph using telephone or live audiovisual means, if available, if the victim is



**ASSEMBLY BILL 383**

1 under arrest, incarcerated, imprisoned or otherwise detained by any law  
2 enforcement agency or is admitted or committed on an inpatient basis to a treatment  
3 facility under ch. 51, ~~971~~ 975, or 980, and the victim does not have a person specified  
4 in s. 950.02 (4) (a) 3. to exercise the victim's right under this paragraph.

5 **SECTION 307.** 950.04 (1v) (d) of the statutes is amended to read:

6 950.04 (1v) (d) To request an order for, and to be given the results of, testing  
7 to determine the presence of a communicable disease, as provided under ss. ~~s.~~  
8 ~~938.296 or 968.38~~ 968.725.

9 **SECTION 308.** 950.04 (1v) (dL) of the statutes is amended to read:

10 950.04 (1v) (dL) To not be the subject of a law enforcement officer's or district  
11 attorney's order, request, or suggestion that he or she submit to a test using a lie  
12 detector, as defined in s. 111.37 (1) (b), if he or she claims to have been the victim of  
13 a sexual assault under s. 940.22 (2), 940.225, 948.02 (1) or (2), or 948.085, except as  
14 permitted under s. ~~968.265~~ 968.595.

15 **SECTION 309.** 950.04 (1v) (e) of the statutes is amended to read:

16 950.04 (1v) (e) To be provided a waiting area under ss. 938.2965 and ~~967.10~~  
17 967.23.

18 **SECTION 310.** 950.04 (1v) (em) of the statutes is amended to read:

19 950.04 (1v) (em) To have his or her interests considered by the court in  
20 determining whether to exclude persons from a ~~preliminary probable cause or~~  
21 retention hearing concerning a juvenile, as provided under s. ~~970.03 (4)~~ 971.75.

22 **SECTION 311.** 950.04 (1v) (g) of the statutes is amended to read:

23 950.04 (1v) (g) To have reasonable attempts made to notify the victim of  
24 hearings or court proceedings, as provided under ss. 302.113 (9g) (g) 2., 302.114 (6),  
25 938.27 (4m) and (6), 938.273 (2), 971.095 (3), and ~~972.14~~ 973.003 (3) (b).

**ASSEMBLY BILL 383**

1           **SECTION 312.** 950.04 (1v) (L) of the statutes is amended to read:

2           950.04 (1v) (L) To have the district attorney or corporation counsel, whichever  
3 is applicable, make a reasonable attempt to contact the victim concerning the  
4 victim's right to make a statement, as provided under ss. 938.32 (1) (b) 2., 938.335  
5 (3m) (b) and ~~972.14~~ 973.003 (3) (b).

6           **SECTION 313.** 950.04 (1v) (m) of the statutes is amended to read:

7           950.04 (1v) (m) To provide statements concerning sentencing, disposition, or  
8 parole, as provided under ss. 304.06 (1) (e), 938.32 (1) (b) 1g., 938.335 (3m) (ag), and  
9 ~~972.14~~ 973.003 (3) (a).

10          **SECTION 314.** 950.04 (1v) (p) of the statutes is amended to read:

11          950.04 (1v) (p) To have the person preparing a presentence investigation under  
12 s. ~~972.15~~ 973.004 make a reasonable attempt to contact the victim, as provided in s.  
13 ~~972.15~~ 973.004 (2m).

14          **SECTION 315.** 950.04 (1v) (qm) of the statutes is amended to read:

15          950.04 (1v) (qm) To recompense as provided under s. ~~969.13 (5) (a)~~ 969.42.

16          **SECTION 316.** 950.04 (1v) (s) of the statutes is amended to read:

17          950.04 (1v) (s) To have any stolen or other personal property expeditiously  
18 returned by law enforcement agencies when no longer needed as evidence, subject  
19 to s. ~~968.205~~ 968.645. If feasible, all such property, except weapons, currency,  
20 contraband, property subject to evidentiary analysis, property subject to  
21 preservation under s. ~~968.205~~ 968.645, and property the ownership of which is  
22 disputed, shall be returned to the person within 10 days of being taken.

23          **SECTION 317.** 950.04 (1v) (um) of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           950.04 (1v) (um) To have district attorneys make a reasonable attempt to notify  
2 the victim under s. ~~971.17 (4m)~~ 975.62 (2) regarding conditional releases under s.  
3 ~~971.17~~ 975.57 (4) or 975.59.

4           **SECTION 318.** 950.04 (1v) (x) of the statutes is amended to read:

5           950.04 (1v) (x) To have the department of health services make a reasonable  
6 attempt to notify the victim under s. ~~971.17 (6m)~~ 975.62 (3) regarding termination  
7 or discharge under s. ~~971.17~~ 975.60 or 975.61 and under s. 51.37 (10) regarding home  
8 visits under s. 51.37 (10).

9           **SECTION 319.** 950.04 (2w) (f) of the statutes is amended to read:

10           950.04 (2w) (f) To be provided a waiting area under ss. 938.2965 and ~~967.10~~  
11 967.23.

12           **SECTION 320.** 950.055 (2) (b) of the statutes is amended to read:

13           950.055 (2) (b) Advice to the judge, when appropriate and as a friend of the  
14 court, regarding the child's ability to understand proceedings and questions. The  
15 services may include providing assistance in determinations concerning the taking  
16 of depositions by audiovisual means under s. 908.08 or ~~967.04 (7) and (8)~~ 967.22 and  
17 the duty to expedite proceedings under s. ~~ss. 938.315 (2) and~~ 971.105.

18           **SECTION 321.** 950.08 (2g) (c) of the statutes is amended to read:

19           950.08 (2g) (c) The address and telephone number of the intake worker,  
20 corporation counsel, or district attorney whom the victim may contact to obtain  
21 information concerning the rights of victims and to request notice of court  
22 proceedings under ss. 938.27 (4m) and (6), 938.273 (2), 938.299 (1) (am) and 938.335  
23 (3m) (b) or ss. 971.095 (3) and ~~972.14~~ 973.003 (3) (b), whichever is applicable, and to  
24 request the opportunity to confer under ss. ~~s.~~ 938.245 (1m), 938.265, or 938.32 (1)  
25 (am) or s. 971.095 (2), whichever is applicable.

**ASSEMBLY BILL 383**

1           **SECTION 322.** 950.08 (2g) (e) of the statutes is amended to read:

2           950.08 **(2g)** (e) The address and telephone number of the custodial agency that  
3 the victim may contact for information concerning release under s. 938.20 ~~or~~, 938.21,  
4 or 974.09 or ch. 969, whichever is appropriate, of a person arrested or taken into  
5 custody for the crime of which he or she is a victim.

6           **SECTION 323.** 950.08 (2r) (intro.) of the statutes is amended to read:

7           950.08 **(2r)** INFORMATION TO BE PROVIDED BY A DISTRICT ATTORNEY IN CRIMINAL  
8 CASES. (intro.) As soon as practicable, but in no event later than 10 days after the  
9 initial appearance under s. ~~970.01~~ or 24 hours before a preliminary examination  
10 ~~under s. 970.03, whichever is earlier,~~ subch. I of ch. 971 of a person charged with a  
11 crime in a court of criminal jurisdiction, a district attorney shall make a reasonable  
12 attempt to provide to each victim of the crime written information on all of the  
13 following:

14           **SECTION 324.** 951.01 (4) of the statutes is amended to read:

15           951.01 **(4)** "Law enforcement officer" has the meaning assigned under s. 967.02  
16 ~~(5)~~ 967.025 (13) but does not include a conservation warden appointed under s. 23.10.

17           **SECTION 325.** 961.48 (2m) (a) of the statutes is amended to read:

18           961.48 **(2m)** (a) Whenever a person charged with a felony offense under this  
19 chapter may be subject to a conviction for a 2nd or subsequent offense, he or she is  
20 not subject to an enhanced penalty under sub. (1) unless any applicable prior  
21 convictions are alleged in the complaint, or indictment ~~or information~~ or in an  
22 amended complaint, or indictment ~~or information~~ that is filed under par. (b) 1. A  
23 person is not subject to an enhanced penalty under sub. (1) for an offense if an  
24 allegation of applicable prior convictions is withdrawn by an amended complaint or  
25 indictment filed under par. (b) 2.

**ASSEMBLY BILL 383**

1           **SECTION 326.** 961.48 (2m) (b) (intro.) of the statutes is amended to read:

2           961.48 **(2m)** (b) (intro.) Notwithstanding s. ~~971.29~~ 970.09 (1), at any time before  
3 entry of a guilty or no contest plea or the commencement of a trial, a district attorney  
4 may file without leave of the court an amended complaint, ~~information~~ or indictment  
5 that does any of the following:

6           **SECTION 327.** 961.56 (1) of the statutes is amended to read:

7           961.56 **(1)** It is not necessary for the state to negate any exemption or exception  
8 in this chapter in any complaint, ~~information~~, indictment, or other pleading or in  
9 any trial, hearing or other proceeding under this chapter. The burden of proof of any  
10 exemption or exception is upon the person claiming it.

11           **SECTION 328.** 967.01 of the statutes is amended to read:

12           **967.01 Title and effective date.** Chapters 967 to 979 may be referred to as  
13 the criminal procedure code and shall be interpreted as a unit. Chapters 967 to 979  
14 shall govern all criminal proceedings and is effective on July 1, 1970. ~~Chapters 967~~  
15 ~~to 979 apply in all prosecutions commenced on or after that date. Prosecutions~~  
16 ~~commenced prior to July 1, 1970, shall be governed by the law existing prior thereto.~~

17           **SECTION 329.** 967.02 (title) of the statutes is repealed.

18           **SECTION 330.** 967.02 (intro.) of the statutes is renumbered 967.025 (intro.).

19           **SECTION 331.** 967.02 (1) of the statutes is renumbered 967.025 (4) and amended  
20 to read:

21           967.025 **(4)** "Clerk" means the clerk of circuit court of the county ~~including and~~  
22 includes the clerk's deputies.

23           **SECTION 332.** 967.02 (2) of the statutes is renumbered 967.025 (9) and amended  
24 to read:

**ASSEMBLY BILL 383**

1           967.025 (9) “Department” means the department of corrections, except as  
2 provided in ss. ~~971.14 and 975.001~~ s. 975.20 (1) for purposes of ch. 975.

3           **SECTION 333.** 967.02 (3) and (4) of the statutes are repealed.

4           **SECTION 334.** 967.02 (5) of the statutes is renumbered 967.025 (13).

5           **SECTION 335.** 967.02 (6) of the statutes is renumbered 967.025 (12) and  
6 amended to read:

7           967.025 (12) “Judge” means judge of ~~a~~ the circuit court of record and includes  
8 a court commissioner acting within the scope of authority conferred under s. 757.69.

9           **SECTION 336.** 967.02 (7) of the statutes is renumbered 967.025 (6) and amended  
10 to read:

11           967.025 (6) “Court” means the circuit court unless otherwise indicated and  
12 includes a court commissioner acting within the scope of authority conferred under  
13 s. 757.69.

14           **SECTION 337.** 967.02 (8) of the statutes is repealed.

15           **SECTION 338.** 967.025 (title) of the statutes is created to read:

16           **967.025 (title) Definitions.**

17           **SECTION 339.** 967.025 (2) of the statutes is created to read:

18           967.025 (2) “Bond” means a promise by a person in custody to appear in court  
19 as required and to comply with other conditions.

20           **SECTION 340.** 967.025 (3) of the statutes is created to read:

21           967.025 (3) “Citation” means a directive, issued by a law enforcement officer,  
22 that a person appear in court or the district attorney’s office.

23           **SECTION 341.** 967.025 (5) of the statutes is created to read:

24           967.025 (5) “Complaint” or “criminal complaint” means the written statement  
25 of the essential facts constituting the crime charged that is issued by a district

**ASSEMBLY BILL 383**

1 attorney. "Complaint" or "criminal complaint" includes a citation endorsed by a  
2 district attorney under s. 969.24 (5).

3 **SECTION 342.** 967.025 (7) of the statutes is created to read:

4 967.025 (7) "Crime" means conduct that is prohibited by state law and  
5 punishable by fine or imprisonment or both. Conduct punishable only by a forfeiture  
6 is not a crime.

7 **SECTION 343.** 967.025 (8) of the statutes is created to read:

8 967.025 (8) "Crime considered at sentencing" means any crime for which the  
9 defendant was convicted and any read-in crime.

10 **SECTION 344.** 967.025 (10) of the statutes is created to read:

11 967.025 (10) "District attorney" includes any duly qualified deputies and  
12 assistants and includes a special prosecutor under s. 978.045, a person assisting  
13 under s. 978.05 (8) (b), and the attorney general in cases in which he or she is  
14 authorized to investigate or prosecute.

15 **SECTION 345.** 967.025 (11) of the statutes is created to read:

16 967.025 (11) "Felony" means a crime punishable by imprisonment in the  
17 Wisconsin state prisons, but does not include a crime that is punishable by  
18 imprisonment in prison only as a result of the application of a penalty increase  
19 provision that does not specifically provide that application of the penalty increase  
20 makes the crime a felony.

21 **SECTION 346.** 967.025 (14) of the statutes is created to read:

22 967.025 (14) "Misdemeanor" means a crime other than a felony.

23 **SECTION 347.** 967.025 (15) of the statutes is created to read:

24 967.025 (15) "Motion" means an application for an order.

25 **SECTION 348.** 967.025 (16) of the statutes is created to read:

**ASSEMBLY BILL 383**

1           967.025 (16) "Read-in crime" means any crime that is uncharged or that is  
2 dismissed as part of a plea agreement, that the defendant agrees to have considered  
3 by the court at the time of sentencing, and that the court considers at the time of  
4 sentencing the defendant for the crime for which the defendant was convicted.

5           **SECTION 349.** 967.025 (17) of the statutes is created to read:

6           967.025 (17) "Sentencing" means the imposition of a sentence, fine, or  
7 probation.

8           **SECTION 350.** 967.03 of the statutes is repealed.

9           **SECTION 351.** 967.04 (title), (1), (2), (3), (4), (5) and (6) of the statutes are  
10 renumbered 967.21 (title), (1), (2), (3), (4), (5) and (6), and 967.21 (title), (1) and (4)  
11 (a), as renumbered, are amended to read:

12           **967.21** (title) **Depositions in criminal proceedings generally.** (1)  
13 CIRCUMSTANCE UNDER WHICH PERMITTED. If it appears that a prospective witness may  
14 be unable to attend or prevented from attending a criminal trial or hearing, that the  
15 prospective witness's testimony is material and that it is necessary to take the  
16 prospective witness's deposition in order to prevent a failure of justice, the court at  
17 any time after the filing of an indictment or ~~information~~ complaint may upon motion  
18 and notice to the parties order that the prospective witness's testimony be taken by  
19 deposition and that any designated books, papers, documents, or tangible objects,  
20 not privileged, be produced at the same time and place. If a witness is committed  
21 pursuant to s. ~~969.01(3)~~ 969.52, the court shall direct that the witness's deposition  
22 be taken upon notice to the parties. ~~After the deposition has been subscribed, the~~  
23 ~~court shall discharge the witness.~~

24           (4) (a) If the state or a witness procures such an order under sub. (1), the notice  
25 shall inform the defendant that the defendant is required to personally attend at the



**ASSEMBLY BILL 383**

1 taking of the deposition and that the defendant's failure so to do is a waiver of the  
2 defendant's right to face the witness whose deposition is to be taken. Failure to  
3 attend shall constitute a waiver unless the defendant was physically unable to  
4 attend.

5 **SECTION 352.** 967.04 (7) (a) of the statutes is renumbered 967.22 (1) and  
6 amended to read:

7 967.22 (1) CIRCUMSTANCE UNDER WHICH PERMITTED. In any criminal prosecution  
8 or any proceeding under ch. 48 or 938, any party may move the court to order that  
9 a deposition of a child who has been or is likely to be called as a witness be taken by  
10 audiovisual means. Upon notice and hearing, the court may issue an order for such  
11 a deposition if the trial or hearing in which the child may be called will commence  
12 before one of the following:

13 (a) ~~Prior to the~~ The child's 12th birthday; ~~or,~~

14 (b) ~~Prior to the~~ The child's 16th birthday ~~and~~ if the court finds under sub. (2)  
15 that the interests of justice warrant that the child's testimony be prerecorded for use  
16 at the trial or hearing ~~under par. (b).~~

17 **SECTION 353.** 967.04 (7) (b) of the statutes is renumbered 967.22 (2), and 967.22  
18 (2) (intro.), (a), (c), (f), (g) and (h), as renumbered, are amended to read:

19 967.22 (2) DETERMINING INTERESTS OF JUSTICE. Among the factors ~~which~~ that the  
20 court may consider in determining the interests of justice are any of the following:

21 (a) The child's chronological age, level of development and capacity to  
22 comprehend the significance of the events about which the child will testify and to  
23 verbalize about them.

24 (c) Whether the events about which the child will testify constituted criminal  
25 or antisocial conduct against the child or a person with whom the child had a close

**ASSEMBLY BILL 383**

1 emotional relationship and, if the conduct constituted a battery or a sexual assault,  
2 its duration and the extent of physical or emotional injury ~~thereby caused by the~~  
3 battery or sexual assault.

4 (f) The child's behavior at or reaction to previous interviews concerning the  
5 events ~~involved~~ about which the child will testify.

6 (g) Whether the child blames himself or herself for the events ~~involved~~ about  
7 which the child will testify or has ever been told by any person not to disclose them;  
8 whether the child's prior reports to associates or authorities of the events have been  
9 disbelieved or not acted upon; and the child's ~~subjective~~ belief regarding what  
10 consequences to himself or herself, or persons with whom the child has a close  
11 emotional relationship, will ensue from providing testimony.

12 (h) Whether the child manifests or has manifested symptoms associated with  
13 posttraumatic stress disorder or other mental disorders, including, ~~without~~  
14 ~~limitation,~~ reexperiencing the events, fear of their repetition, withdrawal,  
15 regression, guilt, anxiety, stress, nightmares, enuresis, lack of self-esteem, mood  
16 changes, compulsive behaviors, school problems, delinquent or antisocial behavior,  
17 phobias, or changes in interpersonal relationships.

18 **SECTION 354.** 967.04 (8) of the statutes is renumbered 967.22 (3), and 967.22  
19 (3) (a) and (b) (intro.) and 4., as renumbered, are amended to read:

20 967.22 (3) PROCEDURES. (a) If the court orders a deposition under sub. ~~(7)~~ (1),  
21 the judge shall preside at the taking of the deposition and enforce compliance with  
22 the applicable provisions of ss. 885.44 to 885.47. Notwithstanding s. 885.44 (5),  
23 counsel may make objections and the judge shall make rulings thereon as at trial.  
24 The clerk ~~of court~~ shall keep the certified original recording of a deposition taken  
25 under sub. ~~(7)~~ (1) in a secure place. No person may inspect or copy the deposition

**ASSEMBLY BILL 383**

1 except by order of the court upon a showing that inspection or copying is required for  
2 editing under s. 885.44 (12) or for the investigation, prosecution, or defense of the  
3 action in which it was authorized or the provision of services to the child.

4 (b) (intro.) If the court orders that a deposition be taken by audiovisual means  
5 under sub. ~~(7)~~ (1), the court shall do all of the following:

6 4. ~~Determine that the child understands that it is wrong to tell a lie and will~~  
7 ~~testify truthfully if~~ If the child's developmental level or verbal skills are such that  
8 administration of an oath or affirmation in the usual form would be inappropriate,  
9 determine that the child understands that it is wrong to tell a lie and will testify  
10 truthfully.

11 **SECTION 355.** 967.04 (9) of the statutes is renumbered 967.22 (4) and amended  
12 to read:

13 967.22 (4) USE AT TRIAL, HEARING, OR OTHER PROCEEDING. In any criminal  
14 prosecution or juvenile fact-finding hearing under s. 48.31 or 938.31, the court may  
15 admit into evidence a recorded deposition taken under subs. ~~(7) and (8)~~ this section  
16 without an additional hearing under s. 908.08. In any proceeding under s. 302.113  
17 (9) (am), 302.114 (9) (am), 304.06 (3), or 973.10 (2), the hearing examiner may order  
18 that a deposition be taken by audiovisual means and preside at the taking of the  
19 deposition using the procedure provided in subs. ~~(7) and (8)~~ this section and may  
20 admit the recorded deposition into evidence without an additional hearing under s.  
21 908.08.

22 **SECTION 356.** 967.04 (10) of the statutes is renumbered 967.22 (5) and amended  
23 to read:

24 967.22 (5) SUBSEQUENT TESTIMONY. If a court or hearing examiner admits a  
25 recorded deposition into evidence under sub. ~~(9)~~ (4), the child may not be called as

**ASSEMBLY BILL 383**

1 a witness at the proceeding in which it was admitted unless the court or hearing  
2 examiner so orders upon a showing that additional testimony by the child is required  
3 in the interest of fairness for reasons neither known nor with reasonable diligence  
4 discoverable at the time of the deposition by the party seeking to call the child. The  
5 testimony of a child who is required to testify under this subsection may be taken in  
6 accordance with s. ~~972.11(2m)~~ 972.20, if applicable.

7 **SECTION 357.** 967.05 (title) of the statutes is renumbered 970.06 (title) and  
8 amended to read:

9 **970.06** (title) **Methods of commencing prosecution.**

10 **SECTION 358.** 967.05 (1) (intro.) and (a) of the statutes are consolidated,  
11 renumbered 970.06 (1) and amended to read:

12 970.06 (1) A prosecution ~~may be~~ is commenced by the filing of: ~~(a) A~~ a  
13 complaint;

14 **SECTION 359.** 967.05 (1) (b) and (c) of the statutes are repealed.

15 **SECTION 360.** 967.05 (2) and (3) of the statutes are repealed.

16 **SECTION 361.** 967.055 of the statutes is renumbered 970.25, and 970.25 (2) (a)  
17 and (b), as renumbered, are amended to read:

18 970.25 (2) (a) Notwithstanding s. ~~971.29~~ 970.09, if the prosecutor seeks to  
19 dismiss or amend a charge under s. 346.63 (1) or (5) or a local ordinance in conformity  
20 therewith, or s. 346.63 (2) or (6) or 940.25, or s. 940.09 where the offense involved the  
21 use of a vehicle or an improper refusal under s. 343.305, the prosecutor shall apply  
22 to the court. The application shall state the reasons for the proposed amendment or  
23 dismissal. The court may approve the application only if the court finds that the  
24 proposed amendment or dismissal is consistent with the public's interest in deterring  
25 the operation of motor vehicles by persons who are under the influence of an

**ASSEMBLY BILL 383**

1 intoxicant, a controlled substance, a controlled substance analog or any combination  
2 of an intoxicant, controlled substance and controlled substance analog, under the  
3 influence of any other drug to a degree which renders him or her incapable of safely  
4 driving, or under the combined influence of an intoxicant and any other drug to a  
5 degree which renders him or her incapable of safely driving, in deterring the  
6 operation of motor vehicles by persons with a detectable amount of a restricted  
7 controlled substance in his or her blood, or in deterring the operation of commercial  
8 motor vehicles by persons with an alcohol concentration of 0.04 or more. The court  
9 may not approve an application to amend the vehicle classification from a  
10 commercial motor vehicle to a noncommercial motor vehicle unless there is evidence  
11 in the record that the motor vehicle being operated by the defendant at the time of  
12 his or her arrest was not a commercial motor vehicle.

13 (b) Notwithstanding s. ~~971.29~~ 970.09, if the prosecutor seeks to dismiss or  
14 amend a charge under s. 30.681 (1) or a local ordinance in conformity therewith, a  
15 charge under s. 30.681 (2), a charge under s. 30.684 (5) or a local ordinance in  
16 conformity therewith or a charge under s. 940.09 or 940.25 if the offense involved the  
17 use of a motorboat, except a sailboat operating under sail alone, the prosecutor shall  
18 apply to the court. The application shall state the reasons for the proposed  
19 amendment or dismissal. The court may approve the application only if the court  
20 finds that the proposed amendment or dismissal is consistent with the public's  
21 interest in deterring the operation of motorboats by persons who are under the  
22 influence of an intoxicant, a controlled substance, a controlled substance analog or  
23 any combination of an intoxicant, controlled substance and controlled substance  
24 analog, under the influence of any other drug to a degree which renders him or her  
25 incapable of operating a motorboat safely, or under the combined influence of an

**ASSEMBLY BILL 383**

1 intoxicant and any other drug to a degree which renders him or her incapable of  
2 operating a motorboat safely.

3 **SECTION 362.** 967.057 of the statutes is renumbered 970.15 (6).

4 **SECTION 363.** 967.06 (title) of the statutes is repealed.

5 **SECTION 364.** 967.06 (1) and (2) (a) of the statutes are consolidated,  
6 renumbered 971.013 and amended to read:

7 **971.013 Determination of indigency; appointment of counsel.** As soon  
8 as practicable after a person has been detained or arrested in connection with any  
9 offense that is punishable by incarceration, ~~or in connection with any civil~~  
10 ~~commitment proceeding,~~ or in any other situation in which a person is entitled to  
11 counsel regardless of ability to pay under the constitution or laws of the United  
12 States or this state, the person shall be informed of his or her right to counsel. ~~(2)~~  
13 ~~(a) Except as provided in par. (b), a~~ A person entitled to counsel under sub. (1) who  
14 indicates at any time that he or she wants to be represented by a lawyer, and who  
15 claims that he or she is not able to pay in full for a lawyer's services, shall  
16 immediately be permitted to contact the authority for indigency determinations  
17 specified under s. 977.07 (1). The authority for indigency determination in each  
18 county shall have daily telephone access to the county jail in order to identify all  
19 persons who are being held in the jail. The jail personnel shall provide by phone  
20 information requested by the authority.

21 **SECTION 365.** 967.06 (2) (b) of the statutes is repealed.

22 **SECTION 366.** 967.06 (3) of the statutes is renumbered 977.072.

23 **SECTION 367.** 967.07 of the statutes is repealed.

24 **SECTION 368.** 967.08 (title) of the statutes is renumbered 967.14 (title).

**ASSEMBLY BILL 383**

1           **SECTION 369.** 967.08 (1) of the statutes is renumbered 967.14 (1) (intro.) and  
2 amended to read:

3           967.14 (1) PROCEEDINGS COVERED. (intro.) Unless good cause to the contrary is  
4 shown, the court may permit any of the following proceedings referred to in this  
5 section may to be conducted by telephone or live audiovisual means, if available. If  
6 the proceeding is required to be reported under SCR 71.01 (2), the on the request of  
7 either party:

8           **(5) PROCEDURES.** A proceeding conducted under this section shall be reported  
9 recorded by a court reporter who is in simultaneous voice communication with all  
10 parties to the proceeding. Regardless of the physical location of any party to the call,  
11 any plea, waiver, stipulation, motion, objection, decision, order or other action taken  
12 by the court or any party shall have the same effect as if made in open court. With  
13 the exceptions of scheduling conferences, pretrial conferences, and, during hours the  
14 court is not in session, setting, review, modification of bail and other conditions of  
15 release under ch. 969, the if it is required to be reported under SCR 71.01 (2). The  
16 proceeding shall be conducted in a courtroom or other place reasonably accessible to  
17 the public, with the exception of scheduling conferences, pretrial conferences, and,  
18 when the court is not in session, the setting, review, or modification of the conditions  
19 of release. Simultaneous access to the proceeding shall be provided to persons  
20 entitled to attend by means of a loudspeaker or, upon request to the court, by making  
21 a person party to the telephone call without charge.

22           **SECTION 370.** 967.08 (2) (intro.) of the statutes is renumbered 967.14 (3) and  
23 amended to read:

24           967.14 (3) REQUESTS AND OBJECTIONS. The court may permit the following  
25 proceedings to be conducted under sub. (1) on the request of either party. The request

**ASSEMBLY BILL 383**

1 and the opposing party's showing of good cause for not conducting the proceeding A  
2 party may make a request under sub. (1) may be made by telephone. The opposing  
3 party may show good cause by telephone for not conducting the proceeding under this  
4 section.

5 **SECTION 371.** 967.08 (2) (a) to (c) of the statutes are renumbered 967.14 (1) (a)  
6 to (c) and amended to read:

7 967.14 (1) (a) Initial appearance under s. ~~970.01~~ subch. I of ch. 971 or pretrial  
8 conference.

9 (b) Waiver of ~~preliminary examination under s. 970.03~~, a competency hearing  
10 under s. 971.14 (4) or 975.34.

11 (e) Waiver of a jury trial under s. 972.02 972.005 (1).

12 (c) Motions for extension of time ~~under ss. 970.03 (2), 971.10 or other statutes.~~

13 **SECTION 372.** 967.08 (2) (d) of the statutes is repealed.

14 **SECTION 373.** 967.08 (3) (intro.) of the statutes is renumbered 967.14 (1) (f)  
15 (intro.) and amended to read:

16 967.14 (1) (f) (intro.) Non-evidentiary proceedings on the following matters  
17 ~~may be conducted under sub. (1) on request of either party. The request and the~~  
18 ~~opposing party's showing of good cause for not conducting the proceeding under sub.~~  
19 ~~(1) may be made by telephone.;~~

20 **SECTION 374.** 967.08 (3) (a) to (f) of the statutes are renumbered 967.14 (1) (f)  
21 1. to 6. and amended to read:

22 967.14 (1) (f) 1. Setting, review, and modification of ~~bail and other~~ conditions  
23 of release under s. 974.09 or ch. 969.

24 2. Motions for severance under s. ~~971.12 (3) 971.68 (2)~~ or consolidation joint  
25 trial of charges under s. ~~971.12 (4) 971.67.~~



**ASSEMBLY BILL 383**

1           3. Motions for testing of physical evidence under s. ~~971.23 (5)~~ discovery or for  
2 protective orders under s. ~~971.23 (6)~~ subch. IV of ch. 971.

3           4. Motions under s. ~~971.31~~ directed to the sufficiency of the complaint or the  
4 affidavits supporting basis for the issuance of a warrant for arrest or search.

5           5. Motions in limine, ~~including those under s. 972.11 (2) (b)~~.

6           6. Motions to postpone, ~~including those under s. 971.29~~ related to scheduling  
7 under subch. III of ch. 971.

8           **SECTION 375.** 967.09 of the statutes is renumbered 967.14 (6), and 967.14 (6)  
9 (title), as renumbered, is amended to read:

10           967.14 (6) (title) ~~INTERPRETERS MAY SERVE BY TELEPHONE OR VIDEO.~~

11           **SECTION 376.** 967.10 of the statutes is renumbered 967.23.

12           **SECTION 377.** 967.11 of the statutes, as affected by 2013 Wisconsin Act 20 is  
13 renumbered 970.16.

14           **SECTION 378.** 967.12 (3) of the statutes is created to read:

15           967.12 (3) If trial is waived, when the court accepts the defendant's plea of  
16 guilty or no contest.

17           **SECTION 379.** 967.13 (1) (a) and (b) of the statutes are created to read:

18           967.13 (1) (a) The initial appearance.

19           (b) Any proceeding at which a plea is entered or withdrawn.

20           **SECTION 380.** 967.13 (1) (i) of the statutes is created to read:

21           967.13 (1) (i) Sentencing.

22           **SECTION 381.** 967.14 (1) (d) of the statutes is created to read:

23           967.14 (1) (d) Entry of a plea other than one that results in a finding of guilt.

24           **SECTION 382.** 967.14 (2) of the statutes is created to read:

**ASSEMBLY BILL 383**

1           967.14 (2) CRITERIA FOR GOOD CAUSE. In determining good cause under sub. (1),  
2 the court may consider the criteria under s. 885.56 (1).

3           **SECTION 383.** 967.14 (4) of the statutes is created to read:

4           967.14 (4) PLEAS OF GUILTY OR NO CONTEST AND SENTENCING. If the district  
5 attorney, the defendant, and defense counsel consent, the court may permit any of  
6 the following proceedings to be conducted by telephone:

7           (a) A proceeding to accept a plea of guilty or no contest.

8           (b) A sentencing proceeding.

9           **SECTION 384.** 967.21 (2) (title) of the statutes is created to read:

10          967.21 (2) (title) PROCEDURE.

11          **SECTION 385.** 967.21 (3) (title) of the statutes is created to read:

12          967.21 (3) (title) APPLICABILITY OF CIVIL RULES.

13          **SECTION 386.** 967.21 (4) (title) of the statutes is created to read:

14          967.21 (4) (title) ATTENDANCE BY DEFENDANT.

15          **SECTION 387.** 967.21 (5) (title) of the statutes is created to read:

16          967.21 (5) (title) USE AT TRIAL OR HEARING.

17          **SECTION 388.** 967.21 (6) (title) of the statutes is created to read:

18          967.21 (6) (title) OBJECTIONS.

19          **SECTION 389.** 967.22 (title) of the statutes is created to read:

20          **967.22 (title) Deposition of a child by audiovisual means.**

21          **SECTION 390.** 968.01 (title) of the statutes is renumbered 970.07 (title) and  
22 amended to read:

23          **970.07 (title) Complaint; contents and oath.**

24          **SECTION 391.** 968.01 (1) (intro.), (a) and (b) of the statutes are renumbered  
25 970.07 (1) (intro.), (a) and (b).

**ASSEMBLY BILL 383**

1           **SECTION 392.** 968.01 (1) (c) of the statutes is repealed.

2           **SECTION 393.** 968.01 (2) of the statutes is renumbered 970.07 (2) and amended  
3 to read:

4           970.07 (2) The complaint is ~~a written statement of the~~ shall specify the time  
5 and place each crime charged was committed, the section of the statutes alleged to  
6 have been violated, and the maximum penalty prescribed for each crime charged.  
7 The complaint shall include a statement of the essential facts constituting the  
8 offense crime charged. ~~A person may make a complaint on, signed by the person on~~  
9 whose knowledge, information, and belief the statement is based.

10           **(3)** Except as provided in sub. ~~(3)~~ (4) or (5), the complaint shall be made upon  
11 oath before a district attorney ~~or judge as provided in this chapter.~~

12           **SECTION 394.** 968.01 (3) of the statutes is renumbered 970.07 (4) and amended  
13 to read:

14           970.07 (4) A person may comply with sub. (2) if he or she makes the oath by  
15 telephone contact with the district attorney ~~or judge~~, signs the statement, and  
16 immediately thereafter transmits a ~~copy~~ facsimile of the signed statement to the  
17 district attorney ~~or judge using a facsimile machine.~~ The person shall also transmit  
18 the original signed statement, ~~without using a facsimile machine,~~ to the district  
19 attorney ~~or judge, who shall file it with the clerk.~~ If the complaint is filed, both the  
20 original and the ~~copy~~ facsimile shall be filed under s. ~~968.02 (2)~~ 970.08.

21           **SECTION 395.** 968.01 (4) of the statutes is renumbered 970.07 (5).

22           **SECTION 396.** Subchapter I (title) of chapter 968 [precedes 968.015] of the  
23 statutes is created to read:

24

**CHAPTER 968**

## ASSEMBLY BILL 383

## SUBCHAPTER I

## INQUESTS

1  
2  
3       **SECTION 397.** 968.02 (title) and (1) of the statutes are renumbered 970.08 (title)  
4 and (1) and amended to read:

5       **970.08** (title) ~~Issuance and filing of complaints~~ **Filing the complaint.**

6       (1) ~~Except as otherwise provided in this section, a complaint charging a person with~~  
7 ~~an offense shall be issued only by a~~ Only the district attorney of the county where  
8 the a crime is alleged to have been committed. A complaint is issued when it is  
9 approved for filing by the district attorney. ~~The approval shall be in the form of a~~  
10 ~~written endorsement on the complaint~~ may be tried under s. 970.14 may file a  
11 complaint.

12       **SECTION 398.** 968.02 (2) of the statutes is repealed.

13       **SECTION 399.** 968.02 (3) of the statutes is repealed.

14       **SECTION 400.** 968.02 (4) of the statutes is repealed.

15       **SECTION 401.** 968.025 (title) of the statutes is created to read:

16       **968.025** (title) **Inquest procedures.**

17       **SECTION 402.** 968.025 (3) of the statutes is created to read:

18       968.025 (3) **WHERE CONDUCTED.** An inquest may be held in any county in this  
19 state in which venue would lie for the trial of any offense that could be charged as  
20 the result of or involving the death.

21       **SECTION 403.** 968.025 (4) (title) of the statutes is created to read:

22       968.025 (4) (title) **JURY SELECTION.**

23       **SECTION 404.** 968.025 (4) (e) of the statutes is created to read:

24       968.025 (4) (e) The court shall select the inquest jury by lot once a panel of at  
25 least 12 potential jurors has been qualified. If the inquest is likely to be protracted,

**ASSEMBLY BILL 383**

1 the judge may select also one or more alternate jurors by lot. If more than 6 jurors  
2 remain after all of the evidence is presented, the court shall determine by lot which  
3 jurors will not participate in deliberations and discharge them.

4 **SECTION 405.** 968.03 (title) and (3) of the statutes are repealed.

5 **SECTION 406.** 968.03 (1) of the statutes is repealed.

6 **SECTION 407.** 968.03 (2) of the statutes is renumbered 969.20 (8) and amended  
7 to read:

8 969.20 (8) WITHDRAWAL OF WARRANT OR SUMMONS AND COMPLAINT. An unserved  
9 warrant, or summons and complaint in a case in which an initial appearance has not  
10 been held shall, at the request of the district attorney, be returned to the judge who  
11 may dismiss the action. Such court, and the court shall dismiss the action. The  
12 request shall be in writing, it and shall state the reasons ~~therefor in writing and shall~~  
13 be filed with the clerk for which it is made.

14 **SECTION 408.** 968.035 (title) of the statutes is created to read:

15 **968.035** (title) **Witnesses.**

16 **SECTION 409.** 968.04 (title) of the statutes is renumbered 969.20 (title) and  
17 amended to read:

18 **969.20** (title) **Warrant Issuance of arrest warrant or summons on**  
19 **complaint.**

20 **SECTION 410.** 968.04 (1) (intro.) of the statutes is renumbered 969.20 (1) and  
21 amended to read:

22 969.20 (1) WARRANTS IN GENERAL. ~~If it appears from the complaint, or from an~~  
23 ~~affidavit or affidavits filed with the complaint or after an examination under oath of~~  
24 ~~the complainant or witnesses, when the a judge determines that this is necessary,~~  
25 ~~that there is probable cause to believe that an offense has been committed and that~~

**ASSEMBLY BILL 383**

1 the accused has committed it, the judge shall issue a warrant for the arrest of the  
2 defendant accused or a summons in lieu thereof. The probable cause determination  
3 may be based on a criminal complaint, an affidavit filed with the criminal complaint,  
4 or if the judge determines it is necessary, after an examination under oath of the  
5 complainant or witness. The warrant or summons shall be delivered ~~forthwith~~ to a  
6 law enforcement officer for service. If the judge does not find probable cause to  
7 believe that an offense has been committed or that the accused has committed it, the  
8 judge shall record that finding on the complaint, file the complaint with the clerk,  
9 and dismiss the action without prejudice.

10 **SECTION 411.** 968.04 (1) (a) of the statutes is repealed.

11 **SECTION 412.** 968.04 (1) (b) of the statutes is renumbered 969.20 (4) and  
12 amended to read:

13 969.20 (4) ISSUANCE BY JUDGE FROM ANOTHER COUNTY. ~~A warrant or summons~~  
14 ~~may be issued by a judge in another county~~ may issue a warrant or summons when  
15 there is no available judge of the county in which the complaint is issued. The  
16 warrant ~~or summons~~ shall be returnable ~~before a judge to a court~~ in the county in  
17 which the offense ~~alleged in the complaint was committed,~~ and the summons shall  
18 be returnable before the circuit court of the county in which the offense ~~alleged in the~~  
19 ~~complaint was committed~~ issued.

20 **SECTION 413.** 968.04 (1) (c) of the statutes is renumbered 969.20 (5) and  
21 amended to read:

22 969.20 (5) GEOGRAPHICAL LIMITS. A judge issuing an arrest warrant may specify  
23 geographical limits for its enforcement ~~of a warrant.~~

24 **SECTION 414.** 968.04 (1) (d) of the statutes is renumbered 969.20 (3) and  
25 amended to read:

**ASSEMBLY BILL 383**

1           969.20 (3) EXAMINATION BY TELEPHONE. ~~An~~ A judge may permit an examination  
2 of the complainant or witness under sub. (1) may or (2) to take place by telephone on  
3 request of the person seeking the warrant or summons unless good cause to the  
4 contrary appears. The judge shall place each complainant or witness under oath and  
5 arrange for all sworn testimony to be recorded, either by a stenographic reporter or  
6 by means of a voice recording device. The judge shall have the record transcribed.  
7 The transcript, certified as accurate by the judge or reporter, as appropriate, shall  
8 be filed with the court. If the testimony was recorded by means of a voice recording  
9 device, the judge shall also file the original recording with the court.

10           **SECTION 415.** 968.04 (2) (title) of the statutes is repealed.

11           **SECTION 416.** 968.04 (2) (a) of the statutes is renumbered 969.20 (7) (a) and  
12 amended to read:

13           969.20 (7) (a) ~~In~~ After issuing a complaint in any case, the district attorney,  
14 ~~after the issuance of a complaint,~~ may issue a summons in lieu of requesting the  
15 issuance of a warrant. ~~The complaint~~ district attorney shall then be filed file the  
16 complaint with the clerk.

17           **SECTION 417.** 968.04 (2) (b) of the statutes is renumbered 969.20 (7) (b).

18           **SECTION 418.** 968.04 (2) (c) of the statutes is repealed.

19           **SECTION 419.** 968.04 (3) (title) of the statutes is repealed.

20           **SECTION 420.** 968.04 (3) (a) (intro.) of the statutes is renumbered 969.21 (1)  
21 (intro.) and amended to read:

22           969.21 (1) ~~WARRANT~~ MANDATORY PROVISIONS. (intro.) ~~The~~ An arrest warrant  
23 shall meet all of the following requirements:

24           **SECTION 421.** 968.04 (3) (a) 1. to 6. of the statutes are renumbered 969.21 (1)  
25 (a) to (f) and amended to read:

**ASSEMBLY BILL 383**

1           969.21 (1) (a) ~~Be~~ The warrant shall be in writing and signed by the judge.

2           (b) ~~State~~ The warrant shall state the name of the crime the defendant allegedly  
3 committed and the number of the statutory section charged ~~and number of the~~  
4 section alleged to have been that the defendant allegedly violated.

5           (c) ~~Have~~ The warrant shall have attached to it a copy of the complaint.

6           (d) ~~State~~ The warrant shall state the name of the person to be arrested, if  
7 known, or if not known, designate the person to be arrested by any description by  
8 which the person to be arrested can be identified with reasonable certainty.

9           (e) ~~State~~ The warrant shall state the date when it was issued ~~and,~~ the name  
10 of the judge who issued it ~~together with,~~ and the title of the judge's office.

11           (f) ~~Command~~ The warrant shall command that the person ~~against whom the~~  
12 ~~complaint was made~~ alleged to have committed the crime in par. (b) be arrested and,  
13 except as provided in s. 969.20 (4), be brought before the judge issuing the warrant,  
14 or, if the judge is absent or unable to act, before some other judge in the same county.

15           **SECTION 422.** 968.04 (3) (a) 7. of the statutes is renumbered 969.26 (1) and  
16 amended to read:

17           969.26 (1) ARREST WARRANT. ~~The~~ An arrest warrant shall be in substantially the  
18 following form:

19           STATE OF WISCONSIN,

20           .... County

21           State of Wisconsin

22           vs.

23           .... (Defendant(s))

24           THE STATE OF WISCONSIN TO ANY LAW ENFORCEMENT OFFICER:



**ASSEMBLY BILL 383**

1           A complaint or affidavit, copy of which is attached, having has been filed with  
2           me or testimony has been presented before me accusing the defendant(s) of  
3           committing the crime of .... contrary to sec. ...., Stats., and I having have found that  
4           there is probable cause ~~exists that the crime was committed by~~ to believe the  
5           defendant(s) committed that crime.

6           You are, therefore, commanded to arrest the defendant(s) and bring .... before  
7           me, ~~or, if I am not available, before some other~~ a judge of this county.

8           Dated ....., .... (year)

9           .....(Signature)

10           .....(Title)

11           **SECTION 423.** 968.04 (3) (a) 8. of the statutes is repealed.

12           **SECTION 424.** 968.04 (3) (b) (title) of the statutes is renumbered 969.22 (title).

13           **SECTION 425.** 968.04 (3) (b) 1. of the statutes is renumbered 969.22 (1) and  
14           amended to read:

15           969.22 (1) MANDATORY PROVISIONS. The summons shall command the defendant  
16           to appear before a court at a certain time and place and shall be in substantially the  
17           form set forth in ~~subd. 3. s. 969.26 (2).~~ The complaint and summons may be on the  
18           same form. If they are, the summons shall be beneath the complaint. If separate  
19           forms are used, a copy of the complaint shall be attached to the summons.

20           **SECTION 426.** 968.04 (3) (b) 2. of the statutes is renumbered 969.22 (2) and  
21           amended to read:

22           969.22 (2) SERVICE. A summons may be served anywhere in the state and it  
23           shall be served by delivering a copy to the defendant personally ~~or~~, by leaving a copy  
24           at ~~the defendant's~~ his or her usual place of abode with a person of discretion residing

**ASSEMBLY BILL 383**

1 ~~therein there, or by mailing a copy to the defendant's last-known address. It shall~~  
2 ~~be served by a law enforcement officer.~~

3 **SECTION 427.** 968.04 (3) (b) 3. (intro.) of the statutes is renumbered 969.26 (2)  
4 (intro.) and amended to read:

5 969.26 (2) SUMMONS. (intro.) The A summons shall be in substantially the  
6 following form:

7 **SECTION 428.** 968.04 (3) (b) 3. a. of the statutes is repealed.

8 **SECTION 429.** 968.04 (3) (b) 3. b. (intro.) of the statutes is repealed.

9 **SECTION 430.** 968.04 (3) (b) 3. b. (form) of the statutes is renumbered 969.26  
10 (2) (form) and amended to read:

11 969.26 (2) (form)

12 STATE OF WISCONSIN,

13 .... County

14 State of Wisconsin

15 vs.

16 .... (Defendant)

17 THE STATE OF WISCONSIN TO SAID DEFENDANT:

18 ~~A complaint, copy of which is attached, having been made before me accusing~~  
19 ~~the defendant of committing the crime of .... contrary to sec. ...., Stats.~~

20 You, ....., ~~are, therefore, summoned to must appear before Branch .... of the ....~~  
21 ~~court Circuit Court of .... County at the courthouse .... in the City of .... to answer said~~  
22 ~~complaint, on ....., .... (year), at .... o'clock in the .... noon, and in case of your failure~~  
23 ~~to appear, (date), ....., at .... a.m./p.m. If you do not appear, a warrant for your arrest~~  
24 ~~may be issued.~~

**ASSEMBLY BILL 383**

1           You have been charged with committing the crime of .... in violation of section  
2           .... of the Wisconsin Statutes. A copy of the complaint charging you with that crime  
3           is attached.

4           Dated ....., .... (year)

5           ..... (Signature)

6           ..... District Attorney (Title)

7           **SECTION 431.** 968.04 (3) (b) 4. of the statutes is repealed.

8           **SECTION 432.** 968.04 (4) of the statutes is renumbered 969.21 (2), and 969.21  
9           (2) (a) to (d), as renumbered, are amended to read:

10           969.21 (2) (a) The Unless otherwise specified under s. 969.20 (5), an arrest  
11           warrant issued under this section shall be directed to all law enforcement officers of  
12           the state. ~~A warrant~~ and may be served anywhere in the state.

13           (b) A warrant is served by arresting the defendant and informing the defendant  
14           as soon as practicable of the nature of the crime with which ~~the defendant~~ he or she  
15           is charged.

16           (c) An arrest may be made by a law enforcement officer without a warrant in  
17           the law enforcement officer's possession when the law enforcement officer has  
18           knowledge reasonably believes that a warrant has been issued. In such case, the  
19           officer shall inform the defendant as soon as practicable of the nature of the crime  
20           with which the defendant is charged.

21           (d) The law enforcement officer arresting a defendant shall ~~endorse~~ record  
22           upon the warrant the time and place of the arrest ~~and the law enforcement officer's~~  
23           ~~fees and mileage therefor.~~

24           **SECTION 433.** 968.05 of the statutes is renumbered 969.23, and 969.23 (1) and  
25           (2), as renumbered, are amended to read:

**ASSEMBLY BILL 383**

1           969.23 (1) When a corporation or limited liability company is charged with the  
2      ~~commission of~~ committing a criminal offense, the judge or district attorney shall  
3      issue a summons setting forth the nature of the offense and commanding the  
4      corporation or limited liability company to appear before a court at a specific time  
5      and place. The corporation or limited liability company shall appear by a corporate  
6      officer or an authorized agent other than defense counsel.

7           (2) The summons for the appearance of a corporation or limited liability  
8      company may be served as ~~provided for service of a summons~~ in the same way that  
9      a summons is served upon a corporation or limited liability company in a civil action  
10     under s. 801.11 (5). The summons ~~shall be returnable not less than~~ may not be  
11     returnable until at least 10 days after service.

12           **SECTION 434.** 968.06 of the statutes is repealed.

13           **SECTION 435.** 968.07 of the statutes is renumbered 969.16, and 969.16 (1) to  
14     (3), as renumbered, are amended to read:

15           969.16 (1) ~~A~~ Except as provided in sub. (3), a law enforcement officer may  
16     arrest a person when:

17           (a) The law enforcement officer has a warrant commanding that such person  
18     be arrested; ~~or,~~

19           (b) The law enforcement officer reasonably believes, ~~on reasonable grounds,~~  
20     that a warrant for the person's arrest has been issued in this state; ~~or,~~

21           (c) The law enforcement officer reasonably believes, ~~on reasonable grounds,~~  
22     that a felony warrant for the person's arrest has been issued in another state; ~~or,~~

23           (d) ~~There are reasonable grounds~~ The law enforcement officer has probable  
24     cause to believe that the person is committing or has committed a crime.

**ASSEMBLY BILL 383**

1           **(1m)** Notwithstanding sub. (1), a law enforcement officer shall arrest a person  
2 when required to do so under s. 813.12 (7), 813.122 (10), 813.125 (6), 813.128 (1) (b),  
3 or ~~968.075 (2) (a)~~ 969.27 (2) (a) or (5) (e).

4           **(2)** A law enforcement officer making a lawful arrest may command the aid of  
5 any person, and such person shall have the same power as ~~that~~ of the law  
6 enforcement officer.

7           **(3)** ~~If the alleged violator under~~ No law enforcement officer may arrest a person  
8 alleged to have violated s. 948.55 (2) or 948.60 (2) (c) until at least 7 days after the  
9 date of the shooting, if the person is or was the parent or guardian of a child who is  
10 injured or dies as a result of an accidental the shooting, ~~no law enforcement officer~~  
11 ~~may arrest the alleged violator until at least 7 days after the date of the shooting.~~

12           **SECTION 436.** 968.073 of the statutes is renumbered 969.165, and 969.165 (2),  
13 as renumbered, is amended to read:

14           969.165 **(2)** It is the policy of this state to make an audio or audio and visual  
15 recording of a custodial interrogation of a person suspected of committing a felony  
16 unless a condition under s. ~~972.115 (2)~~ 972.18 (3) (a) 1. to 6. applies or good cause is  
17 shown for not making an audio or audio and visual recording of the interrogation.

18           **SECTION 437.** 968.075 (title) of the statutes is renumbered 969.27 (title).

19           **SECTION 438.** 968.075 (1) of the statutes is renumbered 969.27 (1).

20           **SECTION 439.** 968.075 (2) (a) of the statutes is renumbered 969.27 (2) (a), and  
21 969.27 (2) (a) (intro.), as renumbered, is amended to read:

22           969.27 **(2)** (a) (intro.) Notwithstanding s. ~~968.07 (1)~~ 969.16 (1) and except as  
23 provided in pars. (am) and (b), a law enforcement officer shall arrest and take a  
24 person into custody if:

**ASSEMBLY BILL 383**

1           **SECTION 440.** 968.075 (2) (am) of the statutes is renumbered 969.27 (2) (am)  
2 and amended to read:

3           969.27 (2) (am) Notwithstanding s. ~~968.07 (1)~~ 969.16 (1), unless the person's  
4 arrest is required under s. 813.12 (7), 813.122 (10), 813.125 (6), or 813.128 (1) (b) or  
5 sub. (5) (e), if a law enforcement officer identifies the predominant aggressor, it is  
6 generally not appropriate for a law enforcement officer to arrest anyone under par.  
7 (a) other than the predominant aggressor.

8           **SECTION 441.** 968.075 (2) (ar) of the statutes is renumbered 969.27 (2) (ar).

9           **SECTION 442.** 968.075 (2) (b) of the statutes is renumbered 969.27 (2) (b).

10          **SECTION 443.** 968.075 (2m) of the statutes is renumbered 969.27 (2m) and  
11 amended to read:

12          969.27 (2m) IMMEDIATE RELEASE PROHIBITED. Unless s. ~~968.08~~ 969.17 applies,  
13 a law enforcement officer may not release a person whose arrest was required under  
14 sub. (2) until the person ~~posts bail~~ remits a cash deposit under s. ~~969.07~~ 969.36 or  
15 appears before a judge under s. ~~970.01 (1)~~ subch. I of ch. 971.

16          **SECTION 444.** 968.075 (3) of the statutes is renumbered 969.27 (3).

17          **SECTION 445.** 968.075 (4) of the statutes is renumbered 969.27 (4).

18          **SECTION 446.** 968.075 (5) of the statutes is renumbered 969.27 (5), and 969.27  
19 (5) (e), as renumbered, is amended to read:

20          969.27 (5) (e) Notwithstanding s. ~~968.07 (1)~~ 969.16 (1), a law enforcement  
21 officer shall arrest and take a person into custody if the officer has reasonable  
22 grounds to believe that the person has violated par. (a).

23          **SECTION 447.** 968.075 (6) to (9) of the statutes are renumbered 969.27 (6) to (9).

24          **SECTION 448.** 968.08 of the statutes is renumbered 969.17 and amended to  
25 read:

**ASSEMBLY BILL 383**

1           **969.17 Release by law enforcement officer of arrested person.** ~~A Except~~  
2           ~~as provided in s. 969.27 (5) (b) 1., a law enforcement officer having custody of a person~~  
3           ~~arrested without a warrant may release the person arrested with or without~~  
4           ~~requiring the person to appear before a judge if the law enforcement officer is~~  
5           ~~satisfied that there are insufficient grounds for the issuance of a criminal complaint~~  
6           ~~against the person arrested or the district attorney.~~

7           **SECTION 449.** 968.085 (title) of the statutes is renumbered 969.24 (title) and  
8           amended to read:

9           **969.24** (title) ~~Citation; nature; issuance; release of accused for~~  
10           **misdemeanor.**

11           **SECTION 450.** 968.085 (1) of the statutes is renumbered 969.24 (1) and amended  
12           to read:

13           **969.24 (1) NATURE.** A citation under this section is a directive, issued by a law  
14           enforcement officer, that a person appear in court and answer criminal charges. ~~A~~  
15           ~~citation is not or the district attorney's office. The citation may be used as a criminal~~  
16           ~~complaint and may not be used as a substitute for a criminal complaint if endorsed~~  
17           ~~by the district attorney as provided in sub. (5).~~

18           **SECTION 451.** 968.085 (2) (intro.) of the statutes is renumbered 969.24 (2) and  
19           amended to read:

20           **969.24 (2) AUTHORITY TO ISSUE; EFFECT.** ~~Except as provided in sub. (8), a~~ A law  
21           enforcement officer may issue a citation to any person whom he or she has reasonable  
22           ~~grounds~~ probable cause to believe has committed a misdemeanor. A citation may be  
23           issued in the field ~~or at the headquarters or precinct station of the officer instead of~~  
24           ~~or subsequent to~~ at any time after a lawful arrest. If a citation is issued, the person

**ASSEMBLY BILL 383**

1 cited shall be released on his or her own recognizance. In determining whether to  
2 issue a citation, the law enforcement officer may consider whether:

3 **SECTION 452.** 968.085 (2) (a) to (f) of the statutes are repealed.

4 **SECTION 453.** 968.085 (3) (intro.) of the statutes is renumbered 969.24 (3)  
5 (intro.).

6 **SECTION 454.** 968.085 (3) (a) of the statutes is renumbered 969.24 (3) (a) and  
7 amended to read:

8 969.24 (3) (a) ~~Identify the offense and section which~~ State essential facts  
9 constituting the crime the person is alleged to have allegedly committed and the  
10 statutory section that the person allegedly violated, including the date, and if  
11 material, identify the property and other persons involved of the offense and the  
12 maximum penalty for the offense.

13 **SECTION 455.** 968.085 (3) (b) of the statutes is renumbered 969.24 (3) (b) and  
14 amended to read:

15 969.24 (3) (b) ~~Contain~~ State the name and address of the person cited, or other  
16 identification if ~~that~~ the person's name or address cannot be ascertained.

17 **SECTION 456.** 968.085 (3) (c) of the statutes is renumbered 969.24 (3) (c).

18 **SECTION 457.** 968.085 (3) (d) of the statutes is renumbered 969.24 (3) (d) and  
19 amended to read:

20 969.24 (3) (d) Direct the person cited to appear ~~for his or her initial appearance~~  
21 ~~in a designated court, at a designated~~ at a specified location and at a specified time  
22 and date.

23 **SECTION 458.** 968.085 (4) of the statutes is renumbered 969.24 (4) and amended  
24 to read:



**ASSEMBLY BILL 383**

1           969.24 (4) SERVICE. ~~A~~ The officer issuing the citation shall give a copy of the  
2           citation shall be delivered to the person cited, and file the original must be filed with  
3           the district attorney.

4           **SECTION 459.** 968.085 (5) of the statutes is renumbered 969.24 (5) and amended  
5           to read:

6           969.24 (5) REVIEW BY DISTRICT ATTORNEY. The district attorney shall review the  
7           citation and may issue a complaint by endorsing the citation with his or her signature  
8           or issue a separate complaint charging the cited person. If the district attorney  
9           reviews the case before the return date and declines to prosecute, he or she shall  
10          notify the law enforcement agency ~~which~~ that issued the citation. The law  
11          enforcement agency shall attempt to notify the person cited that he or she will not  
12          be charged and is not required to appear as directed in the citation.

13          **SECTION 460.** 968.085 (6) of the statutes is renumbered 969.24 (6).

14          **SECTION 461.** 968.085 (7) of the statutes is renumbered 969.24 (7) and amended  
15          to read:

16          969.24 (7) PREPARATION OF FORM. ~~The judicial conference shall prescribe the~~  
17          ~~form and content of the citation under s. 758.171~~ shall be in substantially the same  
18          form set forth in s. 969.26 (3).

19          **SECTION 462.** 968.085 (8) of the statutes is renumbered 969.24 (8) and amended  
20          to read:

21          969.24 (8) INAPPLICABILITY TO CERTAIN DOMESTIC ABUSE CASES. A law enforcement  
22          officer may not issue a citation to a person for an offense if the officer is required to  
23          arrest the person for that offense under s. ~~968.075~~ 969.27 (2).

24          **SECTION 463.** 968.09 (title) of the statutes is renumbered 969.50 (title) and  
25          amended to read:

**ASSEMBLY BILL 383**

1           **969.50** (title) ~~Warrant~~ Bench warrant for defendant or witness on  
2 **failure to appear.**

3           **SECTION 464.** 968.09 (1) of the statutes is renumbered 969.50 (1) and amended  
4 to read:

5           **969.50 (1)** When a defendant or a witness fails to appear before the court as  
6 required, or violates ~~a term of the defendant's or witness's bond or the defendant's~~  
7 ~~or witness's probation, if any~~ condition of release, the court may issue a bench  
8 warrant for the defendant's or witness's arrest which shall direct that the defendant  
9 or witness be brought before the court without unreasonable delay. The court shall  
10 state on the record at the time of issuance of the bench warrant the reason therefor.

11           **SECTION 465.** 968.09 (2) of the statutes is repealed.

12           **SECTION 466.** 968.10 of the statutes is renumbered 968.455, and 968.455  
13 (intro.), (1), (2), (3), (4) and (5), as renumbered, are amended to read:

14           **968.455 Searches and seizures; when authorized.** (intro.) A search of a  
15 person, object, or place may be made and things may be seized when the search is  
16 made under any of the following circumstances:

17           (1) Incident to a lawful arrest;

18           (2) With consent;

19           (3) Pursuant to a valid search warrant;

20           (4) With the authority and within the scope of a right of lawful inspection;

21           (5) Pursuant to a search during an authorized temporary questioning as  
22 provided in s. ~~968.25~~; or 968.565.

23           **SECTION 467.** Subchapter II (title) of chapter 968 [precedes 968.105] of the  
24 statutes is created to read:

**CHAPTER 968**  
25

**ASSEMBLY BILL 383**

## SUBCHAPTER II

## JOHN DOE PROCEEDINGS

**SECTION 468.** 968.11 of the statutes is renumbered 968.575 and amended to read:

**968.575 Scope of search incident to lawful arrest.** When a lawful arrest is made, a law enforcement officer may reasonably search the person arrested and an area within such person's immediate presence for any of the purpose of following purposes:

(1) Protecting the officer from attack;

(2) Preventing the person from escaping;

(3) Discovering and seizing the fruits of the crime; or other offense.

(4) Discovering and seizing any instruments, articles, or things which may have been used in the commission of, or which may constitute evidence of, the offense.

**SECTION 469.** 968.12 (title) of the statutes is renumbered 968.465 (title) and amended to read:

**968.465 (title) Search Application for and issuance of search warrant.**

**SECTION 470.** 968.12 (1) of the statutes is renumbered 968.465 (1) and amended to read:

968.465 (1) DESCRIPTION AND ISSUANCE. A search warrant is an order signed by a judge directing a law enforcement officer to conduct a search of a designated person, a designated object, or a designated place for the purpose of seizing designated property or kinds of property. A judge shall issue a search warrant if probable cause is shown.

**ASSEMBLY BILL 383**

1           **SECTION 471.** 968.12 (2) and (3) (a) and (d) of the statutes are consolidated,  
2           renumbered 968.465 (2) and amended to read:

3           968.465 (2) ~~WARRANT UPON AFFIDAVIT~~ PROCEDURE GENERALLY. ~~A search warrant~~  
4           ~~may be based upon sworn complaint or~~ Probable cause may be shown by an affidavit,  
5           ~~or by oral testimony, or by a combination of an affidavit and oral testimony. The~~  
6           ~~affidavit or testimony shall be sworn to or affirmed and may be upon information and~~  
7           ~~belief. Oral testimony shall be recorded by a phonographic stenographic reporter or~~  
8           ~~under sub. (3) (d), showing probable cause therefor. The complaint, affidavit or~~  
9           ~~testimony may be upon information and belief. (3) (a) General rule. A search~~  
10           ~~warrant may be based upon sworn oral testimony~~ voice recording device and may be  
11           communicated to the judge in person or by telephone, radio, or other reliable means  
12           of electronic communication, ~~under the procedure prescribed in this subsection. (d)~~  
13           ~~Recording and certification of testimony.~~ When a caller informs the judge that the  
14           purpose of the call is to request a warrant, the judge shall place under oath each  
15           person whose testimony forms a basis of the application and each person applying  
16           for the warrant. ~~The judge or requesting person shall arrange for all sworn~~  
17           ~~testimony to be recorded either by a stenographic reporter or by means of a voice~~  
18           ~~recording device. The judge shall have the record transcribed. The.~~ A transcript of  
19           the testimony, certified as accurate by the judge or reporter, as appropriate, shall be  
20           filed with the court. ~~If the testimony was recorded by means of a voice recording~~  
21           ~~device, the judge shall also file and the original recording of any testimony recorded~~  
22           by a voice recording device shall be filed with the court.

23           **SECTION 472.** 968.12 (3) (title) of the statutes is renumbered 968.465 (3) (title)  
24           and amended to read:

**ASSEMBLY BILL 383**

1           968.465 (3) (title) ~~WARRANT UPON ORAL~~ TELEPHONE AND OTHER REMOTE TESTIMONY;  
2           DUPLICATE WARRANT PROCEDURE.

3           **SECTION 473.** 968.12 (3) (b) of the statutes is renumbered 968.465 (3) (a) and  
4           amended to read:

5           968.465 (3) (a) *Application.* ~~The person who is requesting the warrant~~ When  
6           the applicant for a search warrant is testifying outside the presence of the judge, the  
7           judge shall place the applicant under oath or affirmation and arrange for all  
8           testimony to be recorded. The applicant shall prepare a duplicate original warrant  
9           and read the duplicate original warrant, verbatim, to the judge. The judge shall  
10          enter, verbatim, what is read on the original warrant. ~~The~~ Thereafter, but before  
11          signing the original warrant, the judge may direct that the warrant be modified.

12          **SECTION 474.** 968.12 (3) (c) and (f) of the statutes are consolidated, renumbered  
13          968.465 (3) (b) and amended to read:

14          968.465 (3) (b) *Issuance.* If the judge determines that there is probable cause  
15          for the warrant, the judge shall order the issuance of a issue the warrant by directing  
16          the person requesting the warrant to sign the judge's name on the duplicate original  
17          warrant. ~~In addition, the person shall sign his or her own name on the duplicate~~  
18          original warrant. ~~The judge shall immediately sign~~ signing the original warrant and  
19          enter on the face of the original warrant the exact time when the warrant was  
20          ordered to be issued. ~~The finding of probable cause for a warrant upon oral testimony~~  
21          ~~shall be based on the same kind of evidence as is sufficient for a warrant upon~~  
22          affidavit. (f) *Entry of time of execution.* The judge shall direct the applicant to sign  
23          the judge's name on the duplicate warrant. In addition the applicant shall sign his  
24          or her own name on the duplicate warrant. The person who executes the warrant  
25          shall enter the exact time of execution on the face of the duplicate original warrant.

**ASSEMBLY BILL 383**

1           **SECTION 475.** 968.12 (3) (e) of the statutes is repealed.

2           **SECTION 476.** 968.12 (4) of the statutes is renumbered 968.465 (7).

3           **SECTION 477.** 968.13 (title) of the statutes is renumbered 968.475 (title) and  
4 amended to read:

5           **968.475** (title) ~~Search warrant; property~~ **Property subject to seizure.**

6           **SECTION 478.** 968.13 (1) (intro.) of the statutes is renumbered 968.475 (2)  
7 (intro.) and amended to read:

8           968.475 (2) (intro.) A search warrant may authorize the seizure of any of the  
9 following:

10           **SECTION 479.** 968.13 (1) (a) of the statutes is renumbered 968.475 (1) (a) and  
11 amended to read:

12           968.475 (1) (a) ~~“Contraband, which”~~ includes ~~without limitation because of~~  
13 ~~enumeration, but is not limited to,~~ lottery tickets, gambling machines, or other  
14 gambling devices; lewd, obscene, or indecent written matter, pictures, sound  
15 recordings, or motion picture films; forged money or written instruments and the  
16 tools, dies, machines, or materials for making them; and controlled substances, as  
17 defined in s. 961.01 (4), and controlled substance analogs, as defined in s. 961.01  
18 (4m), and the implements for smoking or injecting them. Gambling “Contraband”  
19 does not include machines or other gambling devices possessed by a shipbuilding  
20 business that complies with s. 945.095 ~~are not subject to this section.~~

21           **SECTION 480.** 968.13 (1) (b), (c) and (d) of the statutes are renumbered 968.475  
22 (2) (b), (c) and (d).

23           **SECTION 481.** 968.13 (2) of the statutes is renumbered 968.475 (1) (intro.) and  
24 amended to read:

25           968.475 (1) (intro.) In this section, ~~“documents”~~;

**ASSEMBLY BILL 383**

1           (b) “Documents” includes, but is not limited to, books, papers, records,  
2 recordings, tapes, photographs, films, or computer or electronic data.

3           **SECTION 482.** 968.135 (title) of the statutes is renumbered 968.705 (title).

4           **SECTION 483.** 968.135 of the statutes is renumbered 968.705 (2) and amended  
5 to read:

6           968.705 (2) Upon the request of the attorney general or a district attorney and  
7 upon a showing of probable cause under s. ~~968.12~~ 968.465, a court shall issue a  
8 subpoena requiring the production of documents, ~~as specified in s. 968.13 (2)~~. The  
9 documents shall be returnable to the court which issued the subpoena. ~~Motions to~~  
10 ~~the court, including, but not limited to, motions or to the officer serving the subpoena~~  
11 ~~when the subpoena directs. Any person filing a motion regarding a subpoena issued~~  
12 ~~under this subsection, including a motion to quash or limit the subpoena, shall be~~  
13 ~~addressed to file it with~~ the court which issued the subpoena. Any person who  
14 unlawfully refuses to produce the documents under this subsection may be  
15 compelled to do so as provided in under ch. 785. This section does not limit or affect  
16 any other subpoena authority provided by law.

17           **SECTION 484.** 968.14 of the statutes is renumbered 968.485 (2) and amended  
18 to read:

19           968.485 (2) USE OF FORCE. All necessary force may be used to execute a search  
20 warrant or to ~~effect any entry into~~ enter any building or property or part thereof to  
21 execute a search warrant.

22           **SECTION 485.** 968.15 of the statutes is renumbered 968.495, and 968.495 (1),  
23 as renumbered, is amended to read:

24           968.495 (1) A search warrant ~~must~~ may not be executed ~~and returned not more~~  
25 than 5 days after the date of issuance.

**ASSEMBLY BILL 383**

1           **SECTION 486.** Subchapter III (title) of chapter 968 [precedes 968.155] of the  
2 statutes is created to read:

**CHAPTER 968****SUBCHAPTER III****GRAND JURIES**

3  
4  
5  
6           **SECTION 487.** 968.16 of the statutes is renumbered 968.485 (3) and amended  
7 to read:

8           968.485 (3) ~~DETENTION AND SEARCH OF PERSONS ON PREMISES PRESENT. The person~~  
9 While executing the search warrant, a law enforcement officer may reasonably  
10 detain any occupant of the premises and may reasonably detain and search any  
11 person on the premises ~~at the time to protect himself or herself~~ the law enforcement  
12 officer from attack or to prevent the disposal or concealment of any item particularly  
13 described in the search warrant.

14           **SECTION 488.** 968.17 of the statutes is renumbered 968.506.

15           **SECTION 489.** 968.18 of the statutes is renumbered 968.605.

16           **SECTION 490.** 968.19 of the statutes is renumbered 968.615 and amended to  
17 read:

18           **968.615 Custody of property seized.** Property A law enforcement officer  
19 shall safely keep property seized under a search warrant or validly seized without  
20 a warrant ~~shall be safely kept by the officer, who~~ and may leave it in the custody of  
21 the sheriff and take a receipt ~~therefor, for it.~~ The property shall be kept so long as  
22 necessary for the purpose of being produced as evidence on any trial.

23           **SECTION 491.** 968.20 (title) of the statutes is renumbered 968.625 (title).

24           **SECTION 492.** 968.20 (1) of the statutes is renumbered 968.625 (1), and 968.625  
25 (1) (intro.) and (a), as renumbered, are amended to read:



**ASSEMBLY BILL 383**

1           968.625 (1) (intro.) Any person claiming the right to possession of property  
2 seized pursuant to a search warrant or seized without a search warrant may apply  
3 for its return to the circuit court for the county in which the property was seized or  
4 where the search warrant was returned. The court shall order such notice as it  
5 deems adequate to be given the district attorney and all persons who have or may  
6 have an interest in the property and shall hold a hearing to hear all claims to its true  
7 ownership. If the right to possession is proved to the court's satisfaction, it shall  
8 order the property, other than contraband or property covered under sub. (1m) or (1r)  
9 or s. 173.12 (1m), 173.21 (4) (1), or ~~968.205~~ 968.645, returned if any of the following  
10 applies:

11           (a) The property is not needed as evidence or, if needed, satisfactory  
12 arrangements can be made for its return for subsequent use as evidence; ~~or.~~

13           **SECTION 493.** 968.20 (1m) of the statutes is renumbered 968.625 (1m), and  
14 968.625 (1m) (b), as renumbered, is amended to read:

15           968.625 (1m) (b) If the seized property is a dangerous weapon or ammunition,  
16 the property shall not be returned to any person who committed a crime involving  
17 the use of the dangerous weapon or the ammunition. The property may be returned  
18 to the rightful owner under this section if the owner had no prior knowledge of and  
19 gave no consent to the commission of the crime. Property which may not be returned  
20 to an owner under this subsection shall be disposed of under ~~subs. (3) and (4) s.~~  
21 175.27.

22           **SECTION 494.** 968.20 (1r) of the statutes is renumbered 968.625 (1r).

23           **SECTION 495.** 968.20 (2) of the statutes is renumbered 968.625 (2) and amended  
24 to read:

**ASSEMBLY BILL 383**

1           968.625 (2) Property not required for evidence or use in further investigation,  
2 unless contraband or property covered under sub. (1m) or (1r) or s. 173.12 (1m),  
3 173.21 (1), or ~~968.205~~ 968.645, may be returned by the officer to the person from  
4 whom it was seized without the requirement of a hearing.

5           **SECTION 496.** 968.20 (3) and (4) of the statutes are renumbered 175.27 (1) and  
6 (2) and amended to read:

7           175.27 (1) (a) ~~First~~ Unless the dangerous weapons or ammunition may be  
8 returned to the owner under s. 968.625 (1m) (b), first class cities shall dispose of  
9 dangerous weapons or ammunition seized 12 months after taking possession of them  
10 ~~if the owner, authorized under sub. (1m), has not requested their return and if the~~  
11 dangerous weapon or ammunition is not required for evidence or use in further  
12 investigation and has not been disposed of pursuant to a court order at the  
13 completion of a criminal action or proceeding. Disposition procedures shall be  
14 established by ordinance or resolution and may include provisions authorizing an  
15 attempt to return to the rightful owner any dangerous weapons or ammunition  
16 which appear to be stolen or are reported stolen. If enacted, any such provision shall  
17 include a presumption that, if the dangerous weapons or ammunition appear to be  
18 or are reported stolen, an attempt will be made to return the dangerous weapons or  
19 ammunition to the authorized rightful owner. If the return of a seized dangerous  
20 weapon other than a firearm is not requested by its rightful owner under sub. s.  
21 968.625 (1) and is not returned by the officer under sub. s. 968.625 (2), the city shall  
22 safely dispose of the dangerous weapon or, if the dangerous weapon is a motor  
23 vehicle, as defined in s. 340.01 (35), sell the motor vehicle following the procedure  
24 under s. 973.075 (4) or authorize a law enforcement agency to retain and use the  
25 motor vehicle. If the return of a seized firearm or ammunition is not requested by

**ASSEMBLY BILL 383**

1 its authorized rightful owner under ~~sub. s. 968.625~~ (1) and is not returned by the  
2 officer under ~~sub. s. 968.625~~ (2), the seized firearm or ammunition shall be shipped  
3 to and become property of the state crime laboratories. A person designated by the  
4 department of justice may destroy any material for which the laboratory has no use  
5 or arrange for the exchange of material with other public agencies. In lieu of  
6 destruction, shoulder weapons for which the laboratories have no use shall be turned  
7 over to the department of natural resources for sale and distribution of proceeds  
8 under s. 29.934 or for use under s. 29.938.

9 (b) Except as provided in par. (a) ~~or, sub. (1m) (2), or (4) s. 968.625 (1m)~~, a city,  
10 village, town, or county or other custodian of a seized dangerous weapon or  
11 ammunition, if the dangerous weapon or ammunition is not required for evidence or  
12 use in further investigation and has not been disposed of pursuant to a court order  
13 at the completion of a criminal action or proceeding, shall make reasonable efforts  
14 to notify all persons who have or may have an authorized rightful interest in the  
15 dangerous weapon or ammunition of the application requirements under ~~sub. s.~~  
16 968.625 (1). If, within 30 days after the notice, an application under ~~sub. s. 968.625~~  
17 (1) is not made and the seized dangerous weapon or ammunition is not returned by  
18 the officer under ~~sub. s. 968.625~~ (2), the city, village, town, or county or other  
19 custodian may retain the dangerous weapon or ammunition and authorize its use by  
20 a law enforcement agency, except that a dangerous weapon used in the commission  
21 of a homicide or a handgun, as defined in s. 175.35 (1) (b), may not be retained. If  
22 a dangerous weapon other than a firearm is not so retained, the city, village, town,  
23 or county or other custodian shall safely dispose of the dangerous weapon or, if the  
24 dangerous weapon is a motor vehicle, as defined in s. 340.01 (35), sell the motor  
25 vehicle following the procedure under s. 973.075 (4). If a firearm or ammunition is

**ASSEMBLY BILL 383**

1 not so retained, the city, village, town, or county or other custodian shall ship it to  
2 the state crime laboratories and it is then the property of the laboratories. A person  
3 designated by the department of justice may destroy any material for which the  
4 laboratories have no use or arrange for the exchange of material with other public  
5 agencies. In lieu of destruction, shoulder weapons for which the laboratory has no  
6 use shall be turned over to the department of natural resources for sale and  
7 distribution of proceeds under s. 29.934 or for use under s. 29.938.

8 (2) Any property seized, other than property covered under s. ~~968.205~~ 968.645,  
9 that poses a danger to life or other property in storage, transportation, or use and  
10 that is not required for evidence or further investigation shall be safely disposed of  
11 upon command of the person in whose custody they are committed. The city, village,  
12 town, or county shall by ordinance or resolution establish disposal procedures.  
13 Procedures may include provisions authorizing an attempt to return to the rightful  
14 owner substances which have a commercial value in normal business usage and do  
15 not pose an immediate threat to life or property. If enacted, any such provision shall  
16 include a presumption that if the substance appears to be or is reported stolen an  
17 attempt will be made to return the substance to the rightful owner.

18 **SECTION 497.** 968.205 of the statutes is renumbered 968.645, and 968.645 (1)  
19 (a) and (b), (2) and (3) (b) 2., as renumbered, are amended to read:

20 968.645 (1) (a) "Custody" means actual custody of a person under a sentence  
21 of imprisonment, custody of a probationer, parolee, or person on extended  
22 supervision by the department of corrections, actual or constructive custody of a  
23 person pursuant to a dispositional order under ch. 938, supervision of a person,  
24 whether in institutional care or on conditional release, pursuant to a commitment  
25 order under s. ~~971.17~~ subch. III of ch. 975, and supervision of a person under ch. 980,

**ASSEMBLY BILL 383**

1 whether in detention before trial or while in institutional care or on supervised  
2 release pursuant to a commitment order.

3 (b) "Discharge date" means the date on which a person is released or discharged  
4 from custody that resulted from a criminal action, a delinquency proceeding under  
5 ch. 938, or a commitment proceeding under ~~s. 971.17~~ subch. III of ch. 975 or ch. 980  
6 or, if the person is serving consecutive sentences of imprisonment, the date on which  
7 the person is released or discharged from custody under all of the sentences.

8 (2) Except as provided in sub. (3), if physical evidence that is in the possession  
9 of a law enforcement agency includes any biological material that was collected in  
10 connection with a criminal investigation that resulted in a criminal conviction,  
11 delinquency adjudication, or commitment under ~~s. 971.17~~ subch. III of ch. 975 or s.  
12 980.06 ~~and the biological material is from a victim of the offense that was the subject~~  
13 ~~of the criminal investigation or may reasonably be used to incriminate or exculpate~~  
14 ~~any person for the offense~~, the law enforcement agency shall preserve the physical  
15 evidence until every person in custody as a result of the conviction, adjudication, or  
16 commitment has reached his or her discharge date.

17 (3) (b) 2. Submits a written request for retention of the evidence to the law  
18 enforcement agency or district attorney.

19 **SECTION 498.** 968.21 of the statutes is renumbered 968.465 (4).

20 **SECTION 499.** 968.22 of the statutes is renumbered 968.515.

21 **SECTION 500.** 968.23 of the statutes is renumbered 968.525.

22 **SECTION 501.** 968.24 of the statutes is renumbered 968.555.

23 **SECTION 502.** 968.25 of the statutes is renumbered 968.565 and amended to  
24 read:

**ASSEMBLY BILL 383**

1           **968.565 Search during temporary questioning.** When a law enforcement  
2 officer has stopped a person for temporary questioning pursuant to under s. 968.24  
3 968.555 and reasonably suspects that ~~he or she~~ the law enforcement officer or  
4 another individual is in danger of physical injury, the law enforcement officer may  
5 search ~~such~~ the person for weapons or any instrument ~~or~~, article, or substance  
6 readily capable of causing physical injury and of a sort not ordinarily carried in public  
7 places by law abiding persons. If the law enforcement officer finds such a weapon  
8 or instrument, or any other property possession of which the law enforcement officer  
9 reasonably believes may constitute the commission of a crime, or which may  
10 constitute a threat to ~~his or her~~ the safety of the law enforcement officer, the law  
11 enforcement officer may take it and keep it until the completion of the questioning,  
12 at which time the law enforcement officer shall either return it, if lawfully possessed,  
13 or arrest the person so questioned.

14           **SECTION 503.** 968.255 (title) of the statutes is renumbered 968.585 (title).

15           **SECTION 504.** 968.255 (1) of the statutes is renumbered 968.585 (1), and  
16 968.585 (1) (a) 3. and 4. and (b), as renumbered, are amended to read:

17           968.585 (1) (a) 3. Taken into custody under s. 938.19 and there are reasonable  
18 grounds to believe the juvenile has committed an act which if committed by an adult  
19 would be covered a misdemeanor under subd. ~~1. or 2.~~ or a felony.

20           4. Arrested for any misdemeanor not specified in subd. 2., any other violation  
21 of state law punishable by forfeiture, or any local ordinance, if there is probable cause  
22 to believe the person is concealing a weapon or a thing which may constitute evidence  
23 of the offense for which he or she is detained.

**ASSEMBLY BILL 383**

1 (b) "Strip search" means a search in which a detained person's genitals, pubic  
2 area, buttock, or anus, or a detained female person's breast, is uncovered and either  
3 is exposed to view or is touched by a person conducting the search.

4 **SECTION 505.** 968.255 (2) (intro.) of the statutes is renumbered 968.585 (2)  
5 (intro.) and amended to read:

6 968.585 (2) (intro.) No person may be the subject of another to a strip search  
7 unless ~~he or she is a detained person and if~~ all of the following apply:

8 **SECTION 506.** 968.255 (2) (a) of the statutes is renumbered 968.585 (2) (ar) and  
9 amended to read:

10 968.585 (2) (ar) The person conducting the search is of the same sex as the  
11 person detained, unless the search is a body cavity search ~~conducted~~ that is not  
12 prohibited under sub. (3);.

13 **SECTION 507.** 968.255 (2) (b), (c), (d) and (e) of the statutes are renumbered  
14 968.585 (2) (b), (c), (d) and (e) and amended to read:

15 968.585 (2) (b) The detained person is not exposed to the view of any person  
16 whose presence is not reasonably needed for conducting the search;.

17 (c) The search is not reproduced through a visual or sound recording;.

18 (d) A person conducting the search has obtained the prior written permission  
19 authorization of the chief, or sheriff ~~or law enforcement administrator~~ of the  
20 jurisdiction where the person is detained, or his or her designee, unless there is  
21 probable cause to believe that the detained person is concealing a weapon; ~~and~~.

22 (e) ~~A~~ The person conducting the search prepares a report identifying the  
23 person detained, all persons conducting the search, the time, date, and place of the  
24 search, and the written authorization required by par. (d), and provides a copy of the  
25 report to the person detained.

**ASSEMBLY BILL 383**

1           **SECTION 508.** 968.255 (3) of the statutes is renumbered 968.585 (3) and  
2 amended to read:

3           968.585 (3) No person other than a physician, physician assistant, or  
4 registered nurse licensed to practice in this state may conduct a body cavity search.

5           **SECTION 509.** 968.255 (4) of the statutes is renumbered 946.77 and amended  
6 to read:

7           **946.77 Improper search of a detained person.** ~~A person who~~ Whoever  
8 intentionally violates ~~this section may be fined not more than \$1,000 or imprisoned~~  
9 ~~not more than 90 days or both~~ s. 968.585 is guilty of a Class B misdemeanor.

10           **SECTION 510.** 968.255 (5) of the statutes is renumbered 968.585 (5).

11           **SECTION 511.** 968.255 (6) of the statutes is renumbered 968.585 (6) and  
12 amended to read:

13           968.585 (6) A law enforcement agency, as defined in s. 165.83 (1) (b), may  
14 promulgate rules concerning strip searches ~~which at least~~ that, at a minimum, meet  
15 the ~~minimum~~ requirements of this section.

16           **SECTION 512.** 968.255 (7) of the statutes is renumbered 968.585 (7) and  
17 amended to read:

18           968.585 (7) This section does not apply to a search of any person who meets any  
19 of the following criteria:

20           (a) Is The person is serving a sentence, pursuant to a conviction, in a jail, state  
21 prison, or house of correction.

22           (b) Is The person is placed in or transferred to a juvenile correctional facility,  
23 as defined in s. 938.02 (10p), or a secured residential care center for children and  
24 youth, as defined in s. 938.02 (15g).



**ASSEMBLY BILL 383**

1 (c) Is The person is committed, transferred, or admitted under ch. 975, 2011  
2 stats., or ch. 51, 971 or 975.

3 (d) Is The person is confined as a condition of probation under s. 973.09 (4).

4 **SECTION 513.** 968.256 of the statutes is renumbered 968.59 and amended to  
5 read:

6 **968.59 Search of ~~physically disabled person~~ persons with a physical**  
7 **disability.** (1) In this section, ~~“physically disabled “person with a physical~~  
8 ~~disability”~~ means a person who requires an assistive device for mobility, including,  
9 but not limited to, a wheelchair, brace, crutch, or artificial limb.

10 (2) A search of a ~~physically disabled person~~ with a physical disability shall be  
11 conducted in a careful manner. If a search of a ~~physically disabled person~~ with a  
12 physical disability requires the removal of an assistive device or involves a person  
13 lacking sensation in some portion of his or her body, the search shall be conducted  
14 with extreme care by a person who has had training in handling ~~physically disabled~~  
15 ~~persons~~ with a physical disability.

16 **SECTION 514.** 968.26 of the statutes is renumbered 968.105, and 968.105 (3),  
17 as renumbered, is amended to read:

18 968.105 (3) The extent to which the judge may proceed in an examination  
19 under sub. (1) or (2) is within the judge’s discretion. The examination ~~may be~~  
20 ~~adjourned and may~~ shall be secret unless the judge orders otherwise. Unless the  
21 judge orders the proceeding not to be secret, the record and the testimony taken is  
22 not open to public inspection. The record and testimony taken is open to inspection  
23 by the district attorney, and, if a criminal prosecution follows, it is subject to  
24 discovery under s. 971.43 (2) (br). Any witness examined under this section may  
25 have counsel present at the examination but the counsel shall not be allowed to

**ASSEMBLY BILL 383**

1 examine his or her client, cross-examine other witnesses, or argue before the judge.  
2 Subject to s. 971.23, if the proceeding is secret, the record of the proceeding and the  
3 testimony taken shall not be open to inspection by anyone except the district attorney  
4 unless it is used by the prosecution at the preliminary hearing or the trial of the  
5 accused and then only to the extent that it is so used. A court, on the motion of a  
6 district attorney, may compel a person to testify or produce evidence under s. 972.08  
7 967.17 (1). The person is immune from prosecution as provided in s. 972.08 967.17  
8 (1), subject to the restrictions under s. 972.085 967.18.

9 **SECTION 515.** 968.265 of the statutes is renumbered 968.595.

10 **SECTION 516.** 968.27 (intro.) of the statutes is renumbered 968.305 (intro.) and  
11 amended to read:

12 **968.305 Definitions.** (intro.) In ss. ~~968.28 to 968.375~~ this subchapter:

13 **SECTION 517.** 968.27 (1) of the statutes is renumbered 968.305 (1) and amended  
14 to read:

15 968.305 (1) “Aggrieved person” means a person who was a party to any  
16 intercepted wire, electronic, or oral communication or a person against whom the  
17 interception was directed.

18 **SECTION 518.** 968.27 (2) of the statutes is renumbered 968.305 (2).

19 **SECTION 519.** 968.27 (3) of the statutes is renumbered 968.305 (3) and amended  
20 to read:

21 968.305 (3) “Contents” when used with respect to any wire, electronic, or oral  
22 communication, includes any information concerning the substance, purport, or  
23 meaning of that communication.

24 **SECTION 520.** 968.27 (4) of the statutes is renumbered 968.305 (4), and 968.305  
25 (4) (intro.), as renumbered, is amended to read:

**ASSEMBLY BILL 383**

1           968.305 (4) (intro.) “Electronic communication” means any transfer of signs,  
2 signals, writing, images, sounds, data, or intelligence of any nature wholly or  
3 partially transmitted by a wire, radio, electromagnetic, photoelectronic, or  
4 photooptical system. “Electronic communication” does not include any of the  
5 following:

6           **SECTION 521.** 968.27 (5) of the statutes is renumbered 968.305 (5).

7           **SECTION 522.** 968.27 (6) of the statutes is renumbered 968.305 (6) and amended  
8 to read:

9           968.305 (6) “Electronic communications system” means any wire, radio,  
10 electromagnetic, photooptical, or photoelectronic facilities for the transmission of  
11 electronic communications, and any computer facilities or related electronic  
12 equipment for the electronic storage of those communications.

13           **SECTION 523.** 968.27 (7) of the statutes is renumbered 968.305 (7), and 968.305  
14 (7) (intro.) and (a) (intro.) and 1., as renumbered, are amended to read:

15           968.305 (7) (intro.) “Electronic, mechanical, or other device” means any device  
16 or apparatus which can be used to intercept a wire, electronic, or oral communication  
17 other than one of the following:

18           (a) (intro.) Any telephone or telegraph instrument, equipment, or facilities, or  
19 any component thereof, ~~which is of a telephone or telegraph instrument, equipment,~~  
20 or facilities, that is any of the following:

21           1. Furnished to the subscriber or user by a provider of electronic or wire  
22 communication service in the ordinary course of its business and being used by the  
23 subscriber or user in the ordinary course of its business or furnished by the  
24 subscriber or user for connection to the facilities of the service and used in the  
25 ordinary course of its business; ~~or,~~

**ASSEMBLY BILL 383**

1           **SECTION 524.** 968.27 (8) of the statutes is renumbered 968.305 (8).

2           **SECTION 525.** 968.27 (9) of the statutes is renumbered 968.305 (9) and amended  
3 to read:

4           968.305 (9) “Intercept” means the aural or other acquisition of the contents of  
5 any wire, electronic, or oral communication through the use of any electronic,  
6 mechanical, or other device.

7           **SECTION 526.** 968.27 (10) of the statutes is renumbered 968.305 (10) and  
8 amended to read:

9           968.305 (10) “Investigative or law enforcement officer” means any officer of  
10 this state or political subdivision thereof, who is empowered by the laws of this state  
11 to conduct investigations of or to make arrests for offenses enumerated in ss. ~~968.28~~  
12 968.315 to ~~968.37~~ 968.405, and any attorney authorized by law to prosecute or  
13 participate in the prosecution of those offenses.

14           **SECTION 527.** 968.27 (11) of the statutes is renumbered 968.305 (11) and  
15 amended to read:

16           968.305 (11) “Judge” means the judge sitting at the time an application is made  
17 under s. ~~968.30~~ 968.335 or his or her successor.

18           **SECTION 528.** 968.27 (12) and (13) of the statutes are renumbered 968.305 (12)  
19 and (13).

20           **SECTION 529.** 968.27 (14) of the statutes is renumbered 968.305 (14).

21           **SECTION 530.** 968.27 (14g) of the statutes is renumbered 968.305 (14g).

22           **SECTION 531.** 968.27 (15) of the statutes is renumbered 968.305 (15).

23           **SECTION 532.** 968.27 (16) (intro.), (a) and (b) of the statutes are consolidated,  
24 renumbered 968.305 (16) and amended to read:

**ASSEMBLY BILL 383**

1           968.305 (16) “User” means any person ~~who or entity that:~~ (a) ~~Uses~~ uses an  
2           electronic communication service; and (b) ~~Is duly~~ is authorized by the provider of the  
3           service to engage in that use.

4           **SECTION 533.** 968.27 (17) of the statutes is renumbered 968.305 (17).

5           **SECTION 534.** 968.28 of the statutes is renumbered 968.315 and amended to  
6           read:

7           **968.315 Application for court order to intercept communications.** The  
8           attorney general together with the district attorney of any county may approve a  
9           request of an investigative or law enforcement officer to apply to the chief judge of  
10          the judicial administrative district for the county where the interception is to take  
11          place for an order authorizing or approving the interception of wire, electronic, or  
12          oral communications. The chief judge may under s. ~~968.30~~ 968.335 grant an order  
13          authorizing or approving the interception of wire, electronic, or oral communications  
14          by investigative or law enforcement officers having responsibility for the  
15          investigation of the offense for which the application is made. The authorization  
16          shall be permitted only if the interception may provide or has provided evidence of  
17          the commission of the offense of homicide, felony murder, kidnapping, commercial  
18          gambling, bribery, extortion, dealing in controlled substances or controlled  
19          substance analogs, a computer crime that is a felony under s. 943.70, sexual  
20          exploitation of a child under s. 948.05, trafficking of a child under s. 948.051, child  
21          enticement under s. 948.07, use of a computer to facilitate a child sex crime under  
22          s. 948.075, or soliciting a child for prostitution under s. 948.08, or any conspiracy to  
23          commit any of the foregoing offenses.

24          **SECTION 535.** 968.29 of the statutes is renumbered 968.325 and amended to  
25          read:

**ASSEMBLY BILL 383**

1           **968.325 Authorization for disclosure and use of intercepted wire,**  
2 **electronic, or oral communications.** (1) Any investigative or law enforcement  
3 officer who, by any means authorized by ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405 or 18  
4 USC 2510 to 2520, has obtained knowledge of the contents of any wire, electronic,  
5 or oral communication, or evidence derived therefrom, may disclose the contents to  
6 another investigative or law enforcement officer only to the extent that the disclosure  
7 is appropriate to the proper performance of the official duties of the officer making  
8 or receiving the disclosure.

9           (2) Any investigative or law enforcement officer who, by any means authorized  
10 by ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405 or 18 USC 2510 to 2520, has obtained  
11 knowledge of the contents of any wire, electronic, or oral communication or evidence  
12 derived therefrom may use the contents only to the extent the use is appropriate to  
13 the proper performance of the officer's official duties.

14           (3) (a) Any person who has received, by any means authorized by ss. ~~968.28~~  
15 968.315 to ~~968.37~~ 968.405 or 18 USC 2510 to 2520 or by a like statute of any other  
16 state, any information concerning a wire, electronic, or oral communication or  
17 evidence derived therefrom intercepted in accordance with ss. ~~968.28~~ 968.315 to  
18 ~~968.37~~ 968.405, may disclose the contents of that communication or that derivative  
19 evidence only while giving testimony under oath or affirmation in any proceeding in  
20 any court or before any magistrate or grand jury in this state, or in any court of the  
21 United States or of any state, or in any federal or state grand jury proceeding.

22           (b) In addition to the disclosure provisions of par. (a), any person who has  
23 received, in the manner described under s. ~~968.31~~ 968.345 (2) (b), any information  
24 concerning a wire, electronic, or oral communication or evidence derived therefrom,  
25 may disclose the contents of that communication or that derivative evidence while

**ASSEMBLY BILL 383**

1 giving testimony under oath or affirmation in any proceeding described in par. (a) in  
2 which a person is accused of any act constituting a felony, and only if the party who  
3 consented to the interception is available to testify at the proceeding or if another  
4 witness is available to authenticate the recording.

5 (4) No otherwise privileged wire, electronic, or oral communication intercepted  
6 in accordance with, or in violation of, ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405 or 18 USC  
7 2510 to 2520, may lose its privileged character.

8 (5) When an investigative or law enforcement officer, while engaged in  
9 intercepting wire, electronic, or oral communications in the manner authorized,  
10 intercepts wire, electronic, or oral communications relating to offenses other than  
11 those specified in the order of authorization or approval, the contents thereof, and  
12 evidence derived therefrom, may be disclosed or used as provided in subs. (1) and (2).  
13 The contents and any evidence derived therefrom may be used under sub. (3) when  
14 authorized or approved by the judge who acted on the original application where the  
15 judge finds on subsequent application, made as soon as practicable but no later than  
16 48 hours, that the contents were otherwise intercepted in accordance with ss. ~~968.28~~  
17 968.315 to ~~968.37~~ 968.405 or 18 USC 2510 to 2520 or by a like statute.

18 **SECTION 536.** 968.30 of the statutes is renumbered 968.335, and 968.335 (title),  
19 (1) (intro.), (b) (intro.), 1., 2. and 3. and (e), (3) (intro.), (a) and (d), (4) (intro.), (a), (b),  
20 (c) and (d), (5), (6), (7) (a) and (b), (8), (9) and (10), as renumbered, are amended to  
21 read:

22 **968.335 (title) Procedure for interception of wire, electronic, or oral**  
23 **communications.** (1) (intro.) Each application for an order authorizing or  
24 approving the interception of a wire, electronic, or oral communication shall be made  
25 in writing upon oath or affirmation to the court and shall state the applicant's

**ASSEMBLY BILL 383**

1 authority to make the application and may be upon personal knowledge or  
2 information and belief. Each application shall include the following information:

3 (b) (intro.) A full and complete statement of the facts and circumstances relied  
4 upon by the applicant, to justify the applicant's belief that an order should be issued,  
5 including all of the following:

6 1. Details of the particular offense that has been, is being, or is about to be  
7 committed;

8 2. A particular description of the nature and location of the facilities from which  
9 or the place where the communication is to be intercepted;

10 3. A particular description of the type of communications sought to be  
11 intercepted; ~~and~~.

12 (e) A full and complete statement of the facts concerning all previous  
13 applications known to the individual authorizing and making the application, made  
14 to any court for authorization to intercept, or for approval of interceptions of, wire,  
15 electronic, or oral communications involving any of the same persons, facilities, or  
16 places specified in the application, and the action taken by the court on each such  
17 application; ~~and~~.

18 **(3)** (intro.) Upon the application the court may enter an ex parte order, as  
19 requested or as modified, authorizing or approving interception of wire, electronic,  
20 or oral communications, if the court determines on the basis of the facts submitted  
21 by the applicant that all of the following exist:

22 (a) There is probable cause for belief that an individual is committing, has  
23 committed, or is about to commit a particular offense enumerated in s. ~~968.28~~  
24 968.315.



**ASSEMBLY BILL 383**

1 (d) There is probable cause for belief that the facilities from which, or the place  
2 where, the wire, electronic, or oral communications are to be intercepted are being  
3 used, or are about to be used, in connection with the commission of the offense, or are  
4 leased to, listed in the name of, or commonly used by the person.

5 (4) (intro.) Each order authorizing or approving the interception of any wire,  
6 electronic, or oral communication shall specify all of the following:

7 (a) The identity of the person, if known, whose communications are to be  
8 intercepted;

9 (b) The nature and location of the communications facilities which, or the place  
10 where authority to intercept is granted and the means by which such interceptions  
11 shall be made;

12 (c) A particular description of the type of communication sought to be  
13 intercepted and a statement of the particular offense to which it relates;

14 (d) The identity of the agency authorized to intercept the communications and  
15 of the person authorizing the application; and

16 (5) No order entered under this section may authorize or approve the  
17 interception of any wire, electronic, or oral communication for any period longer than  
18 is necessary to achieve the objective of the authorization, nor in any event longer  
19 than 30 days. The 30-day period begins on the earlier of the day on which the  
20 investigative or law enforcement officer first begins to conduct an interception under  
21 the order or 10 days after the order is entered. Extensions of an order may be  
22 granted, but only upon application for an extension made in accordance with sub. (1)  
23 and the court making the findings required by sub. (3). The period of extension shall  
24 be no longer than the authorizing judge deems necessary to achieve the purposes for  
25 which it was granted and in no event be for longer than 30 days. Every order and

**ASSEMBLY BILL 383**

1 extension thereof shall contain a provision that the authorization to intercept shall  
2 be executed as soon as practicable, shall be conducted in such a way as to minimize  
3 the interception of communications not otherwise subject to interception under this  
4 chapter, and must terminate upon attainment of the authorized objective, or in any  
5 event in 30 days. In the event the intercepted communication is in a code or foreign  
6 language, and an expert in that foreign language or code is not reasonably available  
7 during the interception period, minimization may be accomplished as soon as  
8 practicable after the interception.

9 (6) Whenever an order authorizing interception is entered pursuant to ss.  
10 ~~968.28 968.315~~ to ~~968.33 968.365~~, the order may require reports to be made to the  
11 court which issued the order showing what progress has been made toward  
12 achievement of the authorized objective and the need for continued interception.  
13 Such reports shall be made at such intervals as the court requires.

14 (7) (a) The contents of any wire, electronic, or oral communication intercepted  
15 by any means authorized by ss. ~~968.28 968.315~~ to ~~968.37 968.405~~ shall, if possible,  
16 be recorded on tape or wire or other comparable device. The recording of the contents  
17 of any wire, electronic, or oral communication under this subsection shall be done in  
18 such way as will protect the recording from editing or other alterations. Immediately  
19 upon the expiration of the period of the order or extensions thereof all such  
20 recordings and records of an intercepted wire, electronic, or oral communication  
21 shall be filed with the court issuing the order and the court shall order the same to  
22 be sealed. Custody of the recordings and records shall be wherever the judge  
23 handling the application shall order. They shall not be destroyed except upon an  
24 order of the issuing or denying judge and in any event shall be properly kept and  
25 preserved for 10 years. Duplicate recordings and other records may be made for use

**ASSEMBLY BILL 383**

1 or disclosure pursuant to the provisions for investigations under s. ~~968.29~~ 968.325  
2 (1) and (2). The presence of the seal provided for by this subsection, or a satisfactory  
3 explanation for the absence thereof, shall be a prerequisite for the use or disclosure  
4 of the contents of any wire, electronic, or oral communication or evidence derived  
5 therefrom under s. ~~968.29~~ 968.325 (3).

6 (b) Applications made and orders granted under ss. ~~968.28~~ 968.315 to ~~968.33~~  
7 968.365 together with all other papers and records in connection therewith shall be  
8 ordered sealed by the court. Custody of the applications, orders, and other papers  
9 and records shall be wherever the judge shall order. Such applications and orders  
10 shall be disclosed only upon a showing of good cause before the judge and shall not  
11 be destroyed except on order of the issuing or denying judge, and in any event shall  
12 be kept for 10 years.

13 (8) The contents of any intercepted wire, electronic, or oral communication or  
14 evidence derived therefrom shall not be received in evidence or otherwise disclosed  
15 in any trial, hearing, or other proceeding in any court of this state unless each party,  
16 not less than 10 days before the trial, hearing, or proceeding, has been furnished with  
17 a copy of the court order, and accompanying application, under which the  
18 interception was authorized or approved. This 10-day period may be waived by the  
19 judge if he or she finds that it was not possible to furnish the party with the above  
20 information 10 days before the trial, hearing, or proceeding and that the party will  
21 not be prejudiced by the delay in receiving the information.

22 (9) (a) Any aggrieved person in any trial, hearing, or proceeding in or before  
23 any court, department, officer, agency, regulatory body, or other authority of this  
24 state, or a political subdivision thereof, may move before the trial court or the court  
25 granting the original warrant to suppress the contents of any intercepted wire,

**ASSEMBLY BILL 383**

1 electronic, or oral communication, or evidence derived therefrom, on the grounds  
2 that the communication was unlawfully intercepted; the order of authorization or  
3 approval under which it was intercepted is insufficient on its face; or the interception  
4 was not made in conformity with the order of authorization or approval. The motion  
5 shall be made before the trial, hearing, or proceeding unless there was no  
6 opportunity to make the motion or the person was not aware of the grounds of the  
7 motion. If the motion is granted, the contents of the intercepted wire, electronic, or  
8 oral communication, or evidence derived therefrom, shall be treated as having been  
9 obtained in violation of ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405. The judge may, upon  
10 the filing of the motion by the aggrieved person, make available to the aggrieved  
11 person or his or her counsel for inspection such portions of the intercepted  
12 communication or evidence derived therefrom as the judge determines to be in the  
13 interest of justice.

14 (b) In addition to any other right to appeal, the state shall have the right to  
15 appeal from any of the following:

16 1. ~~From an~~ An order granting a motion to suppress made under par. (a) if the  
17 attorney general or district attorney certifies to the judge or other official granting  
18 such motion that the appeal is not entered for purposes of delay and shall be  
19 diligently prosecuted as in the case of other interlocutory appeals or under such rules  
20 as the supreme court adopts; ~~or,~~

21 2. ~~From an~~ An order denying an application for an order of authorization or  
22 approval, and such an appeal shall be ex parte and shall be in camera in preference  
23 to all other pending appeals in accordance with rules promulgated by the supreme  
24 court.

**ASSEMBLY BILL 383**

1           **(10)** Nothing in ss. ~~968.28~~ 968.315 to ~~968.375~~ 968.405 shall be construed to  
2 allow the interception of any wire, electronic, or oral communication between an  
3 attorney and a client.

4           **SECTION 537.** Subchapter IV (title) of chapter 968 [precedes 968.305] of the  
5 statutes is created to read:

**CHAPTER 968****SUBCHAPTER IV****INTERCEPTION OF ELECTRONIC****COMMUNICATION**

6  
7  
8  
9  
10           **SECTION 538.** 968.31 of the statutes is renumbered 968.345, and 968.345 (title),  
11 (1), (2) (intro.), (a), (b), (c), (e), (f), (i) and (j), (2m) (intro.), (a) and (b) and (3), as  
12 renumbered, are amended to read:

13           **968.345 (title) Interception and disclosure of wire, electronic, or oral**  
14 **communications prohibited. (1)** Except as otherwise specifically provided in ss.  
15 196.63 or ~~968.28~~ 968.315 to ~~968.30~~ 968.335, whoever commits any of the following  
16 acts ~~enumerated in this section~~ is guilty of a Class H felony:

17           (a) Intentionally intercepts, attempts to intercept, or procures any other person  
18 to intercept or attempt to intercept, any wire, electronic, or oral communication.

19           (b) Intentionally uses, attempts to use, or procures any other person to use or  
20 attempt to use any electronic, mechanical, or other device to intercept any oral  
21 communication.

22           (c) Discloses, or attempts to disclose, to any other person the contents of any  
23 wire, electronic, or oral communication, knowing or having reason to know that the  
24 information was obtained through the interception of a wire, electronic, or oral

**ASSEMBLY BILL 383**

1 communication in violation of this ~~section~~ subsection or under circumstances  
2 constituting violation of this ~~section~~ subsection.

3 (d) Uses, or attempts to use, the contents of any wire, electronic, or oral  
4 communication, knowing or having reason to know that the information was  
5 obtained through the interception of a wire, electronic, or oral communication in  
6 violation of this ~~section~~ subsection or under circumstances constituting violation of  
7 this ~~section~~ subsection.

8 (e) Intentionally discloses the contents of any oral, electronic, or wire  
9 communication obtained by authority of ss. ~~968.28, 968.29~~ 968.315, 968.325, and  
10 ~~968.30~~ 968.335, except as therein provided.

11 (f) Intentionally alters any wire, electronic, or oral communication intercepted  
12 on tape, wire, or other device.

13 **(2)** (intro.) It is not unlawful under ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405:

14 (a) For an operator of a switchboard, or an officer, employee, or agent of any  
15 provider of a wire or electronic communication service, whose facilities are used in  
16 the transmission of a wire or electronic communication to intercept, disclose, or use  
17 that communication in the normal course of his or her employment while engaged  
18 in any activity which is a necessary incident to the rendition of his or her service or  
19 to the protection of the rights or property of the provider of that service, except that  
20 a provider of a wire or electronic communication service shall not utilize service  
21 observing or random monitoring except for mechanical or service quality control  
22 checks.

23 (b) For a person acting under color of law to intercept a wire, electronic, or oral  
24 communication, where the person is a party to the communication or one of the  
25 parties to the communication has given prior consent to the interception.

**ASSEMBLY BILL 383**

1 (c) For a person not acting under color of law to intercept a wire, electronic, or  
2 oral communication where the person is a party to the communication or where one  
3 of the parties to the communication has given prior consent to the interception unless  
4 the communication is intercepted for the purpose of committing any criminal or  
5 tortious act in violation of the constitution or laws of the United States or of any state  
6 or for the purpose of committing any other injurious act.

7 (e) For any person to intercept any radio communication that is transmitted  
8 by any of the following:

9 1. ~~By any~~ Any station for the use of the general public, or that relates to ships,  
10 aircraft, vehicles, or persons in distress;

11 2. ~~By any~~ Any governmental, law enforcement, civil defense, private land  
12 mobile, or public safety communications system, including police and fire, readily  
13 accessible to the general public;

14 3. ~~By a~~ A station operating on an authorized frequency within the bands  
15 allocated to the amateur, citizens band, or general mobile radio services; ~~or,~~

16 4. ~~By any~~ Any marine or aeronautical communications system.

17 (f) For any person to engage in any conduct that is any of the following:

18 1. ~~Is prohibited~~ Prohibited by section 633 of the communications act of 1934;  
19 ~~or,~~

20 2. ~~Is excepted~~ Excepted from the application of section 705 (a) of the  
21 communications act of 1934 by section 705 (b) of that act.

22 (i) ~~To use a pen register or a trap and trace device as authorized under ss. 968.34~~  
23 968.376 to 968.37; or 968.405.

24 (j) For a provider of electronic communication service to record the fact that a  
25 wire or electronic communication was initiated or completed in order to protect the

**ASSEMBLY BILL 383**

1 provider, another provider furnishing service toward the completion of the wire or  
2 electronic communication, or a user of that service, from fraudulent, unlawful, or  
3 abusive use of the service.

4 **(2m)** (intro.) Any person whose wire, electronic, or oral communication is  
5 intercepted, disclosed, or used in violation of ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405  
6 shall have a civil cause of action against any person who intercepts, discloses, or uses,  
7 or procures any other person to intercept, disclose, or use, the communication, and  
8 shall be entitled to recover from any such person all of the following:

9 (a) Actual damages, but not less than liquidated damages computed at the rate  
10 of \$100 a day for each day of violation or \$1,000, whichever is higher;

11 (b) Punitive damages; and,

12 **(3)** Good faith reliance on a court order or on s. ~~968.30~~ 968.335 (7) shall  
13 constitute a complete defense to any civil or criminal action brought under ss. ~~968.28~~  
14 968.315 to ~~968.37~~ 968.405.

15 **SECTION 539.** 968.32 of the statutes is renumbered 968.355 and amended to  
16 read:

17 **968.355 Forfeiture of contraband devices.** Any electronic, mechanical, or  
18 other intercepting device used in violation of s. ~~968.31~~ 968.345 (1) may be seized as  
19 contraband by any peace officer and forfeited to this state in an action by the  
20 department of justice under ch. 778.

21 **SECTION 540.** 968.33 of the statutes is renumbered 968.365.

22 **SECTION 541.** 968.34 of the statutes is renumbered 968.376, and 968.376 (1)  
23 and (2), as renumbered, are amended to read:



**ASSEMBLY BILL 383**

1           968.376 (1) Except as provided in this section, no person may install or use a  
2           pen register or a trap and trace device without first obtaining a court order under s.  
3           ~~968.36~~ 968.395 or 18 USC 3123 or 50 USC 1801 to 1811.

4           (2) The prohibition of sub. (1) does not apply with respect to the use of a pen  
5           register or a trap and trace device by a provider of electronic or wire communication  
6           service if any of the following applies:

7           (a) ~~Relating~~ The use relates to the operation, maintenance, and testing of a wire  
8           or electronic communication service or to the protection of the rights or property of  
9           the provider, or to the protection of users of that service from abuse of service or  
10          unlawful use of service;

11          (b) ~~To~~ The use is to record the fact that a wire or electronic communication was  
12          initiated or completed in order to protect the provider, another provider furnishing  
13          service toward the completion of the wire communication, or a user of that service,  
14          from fraudulent, unlawful, or abusive use of service; ~~or~~.

15          (c) ~~Where the~~ The consent of the user of that service has been obtained.

16          **SECTION 542.** 968.35 of the statutes is renumbered 968.385, and 968.385 (1),  
17          as renumbered, is amended to read:

18          968.385 (1) The attorney general or a district attorney may make application  
19          for an order or an extension of an order under s. ~~968.36~~ 968.395 authorizing or  
20          approving the installation and use of a pen register or a trap and trace device, in  
21          writing under oath or equivalent affirmation, to a ~~circuit~~ court for the county where  
22          the device is to be located.

23          **SECTION 543.** 968.36 of the statutes is renumbered 968.395, and 968.395 (1),  
24          (2) (e), (4) and (5), as renumbered, are amended to read:

**ASSEMBLY BILL 383**

1           968.395 (1) Upon an application made under s. ~~968.35~~ 968.385, the court shall  
2 enter an ex parte order authorizing the installation and use of a pen register or a trap  
3 and trace device within the jurisdiction of the court if the court finds that the  
4 applicant has certified to the court that the information likely to be obtained by the  
5 installation and use is relevant to an ongoing criminal investigation.

6           (2) (e) Direct, upon the request of the applicant, the furnishing of information,  
7 facilities and technical assistance necessary to accomplish the installation of the pen  
8 register or trap and trace device under s. ~~968.37~~ 968.405.

9           (4) Extensions of the order may be granted, but only upon an application for  
10 an order under s. ~~968.35~~ 968.385 and upon the judicial finding required by sub. (1).  
11 The period of extension shall be for a period not to exceed 60 days.

12           (5) An order authorizing or approving the installation and use of a pen register  
13 or a trap and trace device shall direct ~~that~~ all of the following:

14           (a) ~~The~~ That the order be sealed until otherwise ordered by the court; ~~and,~~

15           (b) ~~The~~ That the person owning or leasing the line to which the pen register or  
16 a trap and trace device is attached, or who has been ordered by the court to provide  
17 assistance to the applicant, not disclose the existence of the pen register or trap and  
18 trace device or the existence of the investigation to the listed subscriber, or to any  
19 other person, unless or until otherwise ordered by the court.

20           **SECTION 544.** 968.37 of the statutes is renumbered 968.405, and 968.405 (1),  
21 (2), (3), (4) and (5), as renumbered, are amended to read:

22           968.405 (1) Upon the request of the attorney general, a district attorney, or an  
23 officer of a law enforcement agency authorized to install and use a pen register under  
24 ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405, a provider of wire or electronic communication  
25 service, landlord, custodian, or other person shall furnish the investigative or law

**ASSEMBLY BILL 383**

1 enforcement officer forthwith all information, facilities, and technical assistance  
2 necessary to accomplish the installation of the pen register unobtrusively and with  
3 a minimum of interference with the services that the person so ordered by the court  
4 accords the party with respect to whom the installation and use is to take place, if  
5 the assistance is directed by a court order under s. ~~968.36~~ 968.395 (5) (b).

6 (2) Upon the request of the attorney general, a district attorney, or an officer  
7 of a law enforcement agency authorized to receive the results of a trap and trace  
8 device under ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405, a provider of a wire or electronic  
9 communication service, landlord, custodian, or other person shall install the device  
10 ~~forthwith~~ immediately on the appropriate line and shall furnish the investigative or  
11 law enforcement officer all additional information, facilities, and technical  
12 assistance including installation and operation of the device unobtrusively and with  
13 a minimum of interference with the services that the person so ordered by the court  
14 accords the party with respect to whom the installation and use is to take place, if  
15 the installation and assistance is directed by a court order under s. ~~968.36~~ 968.395  
16 (5) (b). Unless otherwise ordered by the court, the results of the trap and trace device  
17 shall be furnished to the officer of a law enforcement agency, designated by the court,  
18 at reasonable intervals during regular business hours for the duration of the order.

19 (3) A provider of a wire or electronic communication service, landlord,  
20 custodian, or other person who furnishes facilities or technical assistance under this  
21 section shall be reasonably compensated for the reasonable expenses incurred in  
22 providing the facilities and assistance.

23 (4) No cause of action may lie in any court against any provider of a wire or  
24 electronic communication service, its officers, employees, or agents or other specified

**ASSEMBLY BILL 383**

1 persons for providing information, facilities, or assistance in accordance with the  
2 terms of a court order under s. ~~968.36~~ 968.395.

3 (5) A good faith reliance on a court order, a legislative authorization, or a  
4 statutory authorization is a complete defense against any civil or criminal action  
5 brought under ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405.

6 **SECTION 545.** 968.38 of the statutes is renumbered 968.725, and 968.725 (2)  
7 (intro.), (2m) (intro.), (3) (d), (4) (intro.) and (5) (intro.), as renumbered, are amended  
8 to read:

9 968.725 (2) (intro.) In a criminal action under s. 940.225, 948.02, 948.025,  
10 948.05, 948.06, 948.085, or 948.095, if all of the following apply, the district attorney  
11 shall apply to the circuit court for his or her county to order the defendant to submit  
12 to an HIV test and to a test or a series of tests to detect the presence of a sexually  
13 transmitted disease, each of which tests shall be administered by a health care  
14 professional, and to disclose the results of the test or tests as specified in sub. (4) (a)  
15 to (c):

16 (2m) (intro.) In a criminal action under s. 946.43 (2m), the district attorney  
17 shall apply to the circuit court for his or her county for an order requiring the  
18 defendant to submit to a test or a series of tests administered by a health care  
19 professional to detect the presence of communicable diseases and to disclose the  
20 results of the test or tests as specified in sub. (5) (a) to (c), if all of the following apply:

21 (3) (d) If the court has determined that the defendant is not competent to  
22 proceed under s. ~~971.14~~ (4) 975.34 and suspended the criminal proceedings, at any  
23 time after the determination that the defendant is not competent to proceed.

24 (4) (intro.) The court shall set a time for a hearing on the matter under sub. (2)  
25 during the preliminary examination, if sub. (3) (a) applies; after the defendant is

**ASSEMBLY BILL 383**

1 bound over for trial and before a verdict is rendered, if sub. (3) (b) applies; after  
2 conviction or a finding of not guilty by reason of mental disease or defect, if sub. (3)  
3 (c) applies; or, subject to s. ~~971.13~~ 975.30 (4), after the determination that the  
4 defendant is not competent, if sub. (3) (d) applies. The court shall give the district  
5 attorney and the defendant notice of the hearing at least 72 hours prior to the  
6 hearing. The defendant may have counsel at the hearing, and counsel may examine  
7 and cross-examine witnesses. If the court finds probable cause to believe that the  
8 victim or alleged victim has had contact with body fluid of the defendant that  
9 constitutes a significant exposure, the court shall order the defendant to submit to  
10 an HIV test and to a test or a series of tests to detect the presence of a sexually  
11 transmitted disease. The test shall be performed by a health care professional. The  
12 court shall require the health care professional who performs the test to disclose the  
13 test results to the defendant, to refrain from making the test results part of the  
14 defendant's permanent medical record, and to disclose the results of the test to any  
15 of the following:

16 (5) (intro.) The court shall set a time for a hearing on the matter under sub. (2m)  
17 during the preliminary examination, if sub. (3) (a) applies; after the defendant is  
18 bound over for trial and before a verdict is rendered, if sub. (3) (b) applies; after  
19 conviction or a finding of not guilty by reason of mental disease or defect, if sub. (3)  
20 (c) applies; or, subject to s. ~~971.13~~ 975.30 (4), after the determination that the  
21 defendant is not competent, if sub. (3) (d) applies. The court shall give the district  
22 attorney and the defendant notice of the hearing at least 72 hours prior to the  
23 hearing. The defendant may have counsel at the hearing, and counsel may examine  
24 and cross-examine witnesses. If the court finds probable cause to believe that the  
25 act or alleged act of the defendant that constitutes a violation of s. 946.43 (2m) carried

**ASSEMBLY BILL 383**

1 a potential for transmitting a communicable disease to the victim or alleged victim  
2 and involved the defendant's blood, semen, vomit, saliva, urine or feces or other  
3 bodily substance of the defendant, the court shall order the defendant to submit to  
4 a test or a series of tests administered by a health care professional to detect the  
5 presence of any communicable disease that was potentially transmitted by the act  
6 or alleged act of the defendant. The court shall require the health care professional  
7 who performs the test to disclose the test results to the defendant. The court shall  
8 require the health care professional who performs the test to refrain from making the  
9 test results part of the defendant's permanent medical record and to disclose the  
10 results of the test to any of the following:

11 **SECTION 546.** 968.40 (title) of the statutes is renumbered 968.155 (title) and  
12 amended to read:

13 **968.155 (title) Grand Convening a grand jury; duration.**

14 **SECTION 547.** 968.40 (1) of the statutes is renumbered 968.155 (1) and amended  
15 to read:

16 968.155 (1) SELECTION OF PROSPECTIVE GRAND JURY LIST JURORS. Any judge may,  
17 in writing, order the clerk of circuit court to select compile a grand jury list within  
18 a specified reasonable time. The clerk shall select from the prospective juror list for  
19 the county the names of not fewer than ~~75~~ 35 nor more than 150 persons to constitute  
20 the prospective grand juror list. The list shall be kept secret.

21 **SECTION 548.** 968.40 (3) of the statutes is renumbered 968.155 (2) and amended  
22 to read:

23 968.155 (2) EXAMINATION OF PROSPECTIVE GRAND JURORS. ~~At the time set for~~  
24 When the prospective grand jurors ~~to~~ appear, the judge shall and the district  
25 attorney or other prosecuting officer may examine the prospective jurors them under

**ASSEMBLY BILL 383**

1 oath or affirmation relative to their qualifications to serve as grand jurors ~~and the~~.  
2 The judge shall excuse those who are disqualified, and may excuse others for any  
3 reason ~~which~~ that seems proper to the judge.

4 **SECTION 549.** 968.40 (4) of the statutes is renumbered 968.155 (3) and amended  
5 to read:

6 968.155 (3) ADDITIONAL GRAND JURORS. If, after such the examination described  
7 in sub. (2), fewer than 17 grand jurors remain, additional prospective grand jurors  
8 shall be selected, summoned and examined until there are at least 17 qualified grand  
9 jurors on the grand jury.

10 **SECTION 550.** 968.40 (6), (7) and (8) of the statutes are renumbered 968.155 (4),  
11 (5) and (6) and amended to read:

12 968.155 (4) TIME GRAND JURORS TO SERVE. ~~Grand~~ The judge may discharge the  
13 grand jury at any time. Otherwise, grand jurors shall serve for a period of 31  
14 consecutive days unless more days are necessary to complete service in a particular  
15 proceeding. ~~The judge may discharge the grand jury at any time.~~

16 (5) ORDERS FILED WITH CLERK. All orders ~~mentioned in~~ under this section shall  
17 be filed with the clerk ~~of court~~.

18 (6) INTERCOUNTY RACKETEERING AND CRIME. When a grand jury is convened  
19 ~~pursuant to~~ under this section to investigate unlawful activity under s. 165.70, and  
20 such the activity involves more than one county, including the county where the  
21 petition for such grand jury is filed, then if the attorney general approves, all  
22 expenses of such proceeding shall be charged to the appropriation under s. 20.455 (1)  
23 (d).

24 **SECTION 551.** 968.41 of the statutes is renumbered 968.165 and amended to  
25 read:

**ASSEMBLY BILL 383**

1           **968.165 Oath or affirmation of grand jurors.** Grand jurors shall, before  
2 they begin performance of their duties, solemnly swear or affirm that they will  
3 diligently inquire as to all matters and things ~~which~~ that come before the grand jury;  
4 that they will keep all matters ~~which~~ that come before the grand jury secret; that they  
5 will indict no person for envy, hatred, or malice; that they will not leave any person  
6 unindicted for love, fear, favor, affection, or hope of reward; and that they will indict  
7 truly, according to the best of their understanding.

8           **SECTION 552.** 968.42 of the statutes is renumbered 968.175 and amended to  
9 read:

10           **968.175 Presiding juror and clerk.** The grand jury shall select from their  
11 number a presiding juror and a clerk. The clerk of the grand jury shall preserve the  
12 minutes of the proceedings before ~~them~~ the grand jury and all exhibits.

13           **SECTION 553.** 968.43 of the statutes is renumbered 968.185 and amended to  
14 read:

15           **968.185 Reporter; oath; salary; assistant.** (1) Every grand jury shall, when  
16 ordered by the judge ordering ~~such~~ the grand jury, employ one or more reporters to  
17 attend ~~their~~ its sessions and to make record and transcribe ~~a~~ verbatim ~~record~~ of all  
18 proceedings had before ~~them~~ it.

19           (2) Before assuming the duties under this section, each reporter shall make  
20 and file an oath or affirmation faithfully to record and transcribe faithfully all of the  
21 proceedings before the grand jury and to keep secret the matters ~~relative~~ related to  
22 the proceedings. Each reporter shall be paid out of the county treasury of the county  
23 in which the service is rendered ~~such~~ a sum for compensation and expenses as ~~shall~~  
24 ~~be~~ audited and allowed as reasonable by the court ordering the grand jury. Each  
25 reporter may employ on his or her own account a person to transcribe the testimony



**ASSEMBLY BILL 383**

1 and proceedings of the grand jury, but before entering upon the duties under this  
2 subsection, the person shall be required to make and file an oath or affirmation  
3 similar to that required of each reporter.

4 (3) Any Except as provided in s. 968.295, any person who violates an oath or  
5 affirmation required by sub. (2) is guilty of a Class H felony.

6 **SECTION 554.** 968.44 of the statutes is renumbered 968.195 and amended to  
7 read:

8 **968.195 Witnesses Oaths to witnesses.** The presiding juror of every grand  
9 jury and the district attorney ~~or other prosecuting officer~~ who is before the grand jury  
10 may administer all oaths and affirmations in the manner prescribed by law to  
11 witnesses who appear before the grand jury for the purpose of testifying in any  
12 matter of which the witnesses have cognizance. At the request of the court, the  
13 presiding juror shall return to the court a list, under his or her hand, of all witnesses  
14 who are sworn before the grand jury. That list shall be filed by the clerk of circuit  
15 court.

16 **SECTION 555.** 968.45 (title) of the statutes is renumbered 968.203 (title) and  
17 amended to read:

18 **968.203 (title) Witness rights Counsel for witnesses; transcripts.**

19 **SECTION 556.** 968.45 (1) of the statutes is renumbered 968.203 (1) (a) and  
20 amended to read:

21 968.203 (1) (a) Any witness appearing before a grand jury may have counsel  
22 present, but the counsel shall not be allowed to examine his or her client,  
23 cross-examine other witnesses, or argue before the judge. Counsel may consult with  
24 his or her client while before a grand jury. ~~If the prosecuting officer,~~

**ASSEMBLY BILL 383**

1           **(b)** A district attorney, an attorney for a witness, or a grand juror who believes  
2 that a conflict of interest exists for an attorney ~~or attorneys~~ to represent more than  
3 one witness before a grand jury, ~~the person so believing~~ may make a motion before  
4 the presiding judge to disqualify the attorney from representing more than one  
5 witness before the grand jury. ~~A~~ The court shall hold a hearing shall be held upon  
6 notice with the burden ~~upon~~ on the moving party to establish the conflict.

7           **SECTION 557.** 968.45 (2) of the statutes is renumbered 968.203 (2) and amended  
8 to read:

9           968.203 (2) No grand jury transcript may be made public until the trial of  
10 ~~anyone~~ a person indicted by the grand jury, and then only that portion of the  
11 transcript that is relevant and material to the case at hand may be made public. This  
12 subsection does not limit the defendant's rights to discovery under s. ~~971.23~~ 971.43  
13 (2) (a).

14           **SECTION 558.** Subchapter V (title) of chapter 968 [precedes 968.455] of the  
15 statutes is created to read:

**CHAPTER 968**

## SUBCHAPTER V

## SEARCH AND SEIZURE

16           **SECTION 559.** 968.46 of the statutes is renumbered 968.215 and amended to  
17 read:

18           **968.215 Secrecy of motions.** Notwithstanding s. 757.14, all motions,  
19 including but not limited to those for immunity or a privilege, brought by a  
20 ~~prosecuting officer~~ district attorney or witness appearing before a grand jury shall  
21 be made, heard, and decided in complete secrecy and not in open court if the  
22  
23  
24

**ASSEMBLY BILL 383**

1 prosecuting officer or witness person bringing the motion or exercising the immunity  
2 or privilege so requests.

3 **SECTION 560.** Subchapter VI (title) of chapter 968 [precedes 968.465] of the  
4 statutes is created to read:

**CHAPTER 968****SUBCHAPTER VI****SEARCH WARRANTS**

8 **SECTION 561.** 968.465 (5) and (6) of the statutes are created to read:

9 968.465 (5) SEALED WARRANT. A judge may order that a search warrant and  
10 supporting documents be held under seal for a specified period and may extend or  
11 reduce the period for good cause shown. The judge shall make the decision in his or  
12 her discretion, after balancing the reasons for secrecy against the defendant's and  
13 the public's right of access.

14 (6) PERMITTING EXECUTION WITHOUT ANNOUNCEMENT. A search warrant may  
15 authorize the executing officer to enter the premises designated in the warrant  
16 without announcement and delay under s. 968.485 (1) when the applicant shows that  
17 there is a reasonable suspicion that, in the particular circumstances, announcement  
18 and delay would be dangerous or futile or would inhibit the effective investigation  
19 of the crime by any means including but not limited to the destruction of evidence.

20 **SECTION 562.** 968.47 of the statutes is renumbered 968.225 and amended to  
21 read:

22 **968.225 District Duties of district attorney, when to attend.** Whenever  
23 required by the grand jury it shall be the duty of, the district attorney of the county  
24 to shall attend them grand jury proceedings for the purpose of examining witnesses  
25 in their the presence or of giving them of the grand jury, give the grand jury advice

**ASSEMBLY BILL 383**

1 upon any legal matter, and to issue subpoenas and other process to bring up  
2 witnesses before the grand jury.

3 **SECTION 563.** 968.475 (2) (a) of the statutes is created to read:

4 968.475 (2) (a) Contraband.

5 **SECTION 564.** 968.475 (2) (e) of the statutes is created to read:

6 968.475 (2) (e) A designated person.

7 **SECTION 565.** 968.475 (3) of the statutes is created to read:

8 968.475 (3) Section 968.705 applies to documents to be subpoenaed if the  
9 documents are under the control of a person not reasonably suspected to be  
10 concerned in the commission of a crime.

11 **SECTION 566.** 968.48 of the statutes is renumbered 968.235 and amended to  
12 read:

13 **968.235 Attendance; absence; excuse Grand jury attendance; number**  
14 **required for grand jury session; number required to concur in and**  
15 **indictment.** Each grand juror shall attend every session of the grand jury unless  
16 excused by the presiding juror. The presiding juror may excuse a grand juror from  
17 attending a grand jury session only for a reason which appears to the presiding juror  
18 in his or her discretion as good and sufficient cause for the excuse juror's absence.  
19 No business may be transacted at any session of the grand jury ~~at which less~~ if fewer  
20 than 14 members of the grand jury are in attendance, and no indictment may be  
21 found by any grand jury may indict unless at least 12 of their number shall grand  
22 jurors concur in the indictment.

23 **SECTION 567.** 968.485 (title) and (1) of the statutes are created to read:

24 **968.485 (title) Execution of a search warrant. (1) KNOCK AND ANNOUNCE**  
25 **REQUIREMENT AND EXCEPTIONS.** When seeking to enter a dwelling to execute a search

**ASSEMBLY BILL 383**

1 warrant, a law enforcement officer shall first announce the purpose and authority  
2 to enter and allow a reasonable time for the door to be opened, unless one of the  
3 following applies:

4 (a) The search warrant authorizes the entry of the premises without  
5 announcement and delay and the reasonable suspicion under s. 968.465 (6)  
6 justifying the authorizing provision continues to exist at the time the warrant is  
7 executed.

8 (b) Under the particular circumstances that the warrant is executed, the law  
9 enforcement officer has reasonable suspicion, that was not, or reasonably could not  
10 have been, known when the warrant was requested, that announcement and delay  
11 would be dangerous or futile or would inhibit the effective investigation of the crime  
12 by any means including but not limited to the destruction of evidence.

13 **SECTION 568.** 968.49 of the statutes is renumbered 968.245 and amended to  
14 read:

15 **968.245 Fine for nonattendance.** Any person lawfully summoned to attend  
16 as a grand juror who fails to attend without any sufficient excuse shall ~~pay a fine not~~  
17 ~~exceeding~~ be fined not more than \$40, which ~~shall be imposed by~~ the court to which  
18 the person was summoned shall impose and which shall be paid into the county  
19 treasury.

20 **SECTION 569.** 968.50 of the statutes is renumbered 968.252 and amended to  
21 read:

22 **968.252 Report progress and return indictments.** A grand jury may  
23 report progress and return indictments to the court from time to time during its  
24 session ~~and until discharged.~~

25 **SECTION 570.** 968.505 (title) of the statutes is renumbered 968.262 (title).

**ASSEMBLY BILL 383**

1           **SECTION 571.** 968.505 of the statutes is renumbered 968.262 (1) and amended  
2 to read:

3           968.262 (1) When the grand jury is discharged, the clerk of the grand jury shall  
4 collect all transcripts of testimony, minutes of proceedings, exhibits, and other  
5 records of the grand jury, and, except as provided in sub. (2), shall deliver them as  
6 the jury directs either to the attorney general or to the district attorney, ~~or upon,~~

7           **(2)** Upon approval of the court, the grand jury may direct its clerk to deliver  
8 them grand jury materials collected under sub. (1) to the clerk of the court, who shall  
9 impound them subject to the further ~~order or~~ orders of the court.

10           **SECTION 572.** 968.51 of the statutes is renumbered 968.275 and amended to  
11 read:

12           **968.275 Indictment not to be disclosed.** ~~No grand juror or officer of the~~  
13 ~~court, if~~ If the court shall so order, shall orders, no grand juror or officer of the court  
14 may disclose the fact that any indictment for a felony has been found against that  
15 the grand jury has indicted any person not in custody or under recognizance,  
16 otherwise than by issuing or executing process on such indictment, until such the  
17 person has been arrested.

18           **SECTION 573.** 968.52 of the statutes is renumbered 968.285 and amended to  
19 read:

20           **968.285 Votes not to be disclosed.** No grand juror may ~~be allowed to state~~  
21 ~~or testify~~ disclose in any court ~~in what manner~~ how he or she or any other member  
22 ~~of the jury~~ grand juror voted ~~or what opinion any grand juror expressed~~ on any  
23 question before them, ~~or what opinion was expressed by any juror in relation to the~~  
24 question the grand jury.

**ASSEMBLY BILL 383**

1           **SECTION 574.** 968.53 of the statutes is renumbered 968.295 and amended to  
2 read:

3           **968.295 When testimony may be disclosed.** ~~Members of the grand jury and~~  
4 ~~any grand jury reporter may be required by any court~~ Notwithstanding any oath or  
5 affirmation required under s. 968.165 or 968.185 (2), any court may require grand  
6 jurors and grand jury reporters to testify whether the testimony of a witness  
7 examined before the jury is consistent with or different from the evidence given by  
8 the witness before the court; ~~and they.~~ Notwithstanding any oath or affirmation  
9 required under s. 968.165 or 968.185 (2), the court may also be required require  
10 grand jurors and grand jury reporters also to disclose the testimony given before the  
11 grand jury by any person upon a complaint against the person for perjury, or upon  
12 trial for the offense. ~~Any~~ If the court receives in evidence any transcript of testimony  
13 taken before the grand jury ~~and certified by a, the grand jury reporter to have~~  
14 reporter's certification that the transcript has been carefully compared by the  
15 reporter with his or her minutes of testimony so taken and to be is a true and correct  
16 transcript of all or a specified portion of the transcript, ~~may be received in evidence~~  
17 with shall have the same effect as the oral testimony of the reporter to the facts so  
18 certified, but the reporter may be cross-examined by any party as to the matter.

19           **SECTION 575.** 968.585 (2) (ag) of the statutes is created to read:

20           968.585 (2) (ag) The subject of the strip search is a detained person.

21           **SECTION 576.** 968.585 (4m) of the statutes is created to read:

22           968.585 (4m) Any evidence obtained by a strip search in violation of sub. (2)  
23 or (3) is not admissible as evidence at trial.

24           **SECTION 577.** 968.585 (7) (cm) of the statutes is created to read:

25           968.585 (7) (cm) The person is committed under ch. 980.

**ASSEMBLY BILL 383**

1           **SECTION 578.** Subchapter VII (title) of chapter 968 [precedes 968.605] of the  
2 statutes is created to read:

**CHAPTER 968**

## SUBCHAPTER VII

## SEIZED PROPERTY

3  
4  
5  
6           **SECTION 579.** Subchapter VIII (title) of chapter 968 [precedes 968.705] of the  
7 statutes is created to read:

**CHAPTER 968**

## SUBCHAPTER VIII

## MISCELLANEOUS

8  
9  
10  
11           **SECTION 580.** 968.705 (1) and (3) of the statutes are created to read:

12           968.705 (1) In this section, “documents” has the meaning given in s. 968.475  
13 (1) (b).

14           (3) Documents seized by or delivered to an officer pursuant to a subpoena under  
15 this section shall be deemed seized property for the purposes of ss. 968.615 and  
16 968.625.

17           **SECTION 581.** 968.71 of the statutes is created to read:

18           **968.71 Disclosure of depositor status. (1)** In this section:

19           (a) “Depository account” includes any monetary interest that a person  
20 maintains at a financial institution.

21           (b) “Financial institution” has the meaning given in s. 214.01 (1) (jn).

22           (2) Upon the request of the district attorney and a showing that the information  
23 requested is relevant to a criminal investigation, the court shall issue an order  
24 requiring any financial institution to disclose to the district attorney whether the  
25 person named in the order has a depository account with the financial institution or



**ASSEMBLY BILL 383**

1 whether the person had a depository account with the financial institution at a prior  
2 specified time. Any person who unlawfully violates such an order may be compelled  
3 to do so under ch. 785.

4 **SECTION 582.** Chapter 969 (title) of the statutes is repealed and recreated to  
5 read:

**CHAPTER 969****SECURING A DEFENDANT'S****APPEARANCE; RELEASE**

6  
7  
8  
9 **SECTION 583.** 969.001 (intro.) of the statutes is renumbered 969.30 (intro.) and  
10 amended to read:

11 **969.30 Definitions.** (intro.) In this ~~chapter~~ subchapter:

12 **SECTION 584.** 969.001 (1) of the statutes is renumbered 967.025 (1) and  
13 amended to read:

14 967.025 (1) "Bail" means monetary conditions of release on bond.

15 **SECTION 585.** 969.001 (2) of the statutes is repealed.

16 **SECTION 586.** 969.01 (title) of the statutes is renumbered 969.31 (title).

17 **SECTION 587.** 969.01 (1) of the statutes is renumbered 969.31 (1) and amended  
18 to read:

19 969.31 (1) BEFORE CONVICTION. ~~Before conviction, except~~ Except as provided in  
20 ~~ss. 969.035 and 971.14 (1r) s. 969.43 or 975.32~~, a defendant arrested for a ~~criminal~~  
21 ~~offense~~ crime is eligible for release before conviction under reasonable conditions  
22 designed to assure ensure his or her appearance in court, protect members of the  
23 community from serious bodily harm, or prevent the intimidation of witnesses. ~~Bail~~  
24 ~~may be imposed at or after the initial appearance only upon a finding by the court~~  
25 ~~that there is a reasonable basis to believe that bail is necessary to assure appearance~~

**ASSEMBLY BILL 383**

1 in court. In determining whether any conditions of release are appropriate, the judge  
2 shall first consider the likelihood of the defendant appearing for trial if released on  
3 his or her own recognizance.

4 **SECTION 588.** 969.01 (2) (title) of the statutes is repealed.

5 **SECTION 589.** 969.01 (2) (a) of the statutes is renumbered 969.31 (2) and  
6 amended to read:

7 969.31 (2) AFTER CONVICTION. Release pursuant to s. 969.02 or 969.03 may be  
8 allowed in the discretion of In its discretion the trial court may allow release on  
9 conditions after conviction and prior to sentencing or the granting of probation. This  
10 paragraph does not apply to a conviction for a 3rd or subsequent violation that is  
11 counted as a suspension, revocation, or conviction under s. 343.307, or under s.  
12 940.09 (1) or 940.25 in the person's lifetime, or a combination thereof.

13 **SECTION 590.** 969.01 (2) (b) and (c) of the statutes are consolidated, renumbered  
14 974.09 (1) (a) and amended to read:

15 974.09 (1) (a) In misdemeanors, release may be allowed upon appeal in the  
16 discretion of the trial court. (e) In and felonies, release may be allowed upon appeal  
17 in the discretion of the trial court pursuant to ss. 809.31, 969.32, 969.33, 969.37,  
18 969.38, 969.39, 969.40, 969.41, and 969.42.

19 **SECTION 591.** 969.01 (2) (d) of the statutes is renumbered 974.09 (1) (b) and  
20 amended to read:

21 974.09 (1) (b) The supreme court or a justice thereof or the court of appeals or  
22 a judge thereof may allow release after conviction pending appeal.

23 **SECTION 592.** 969.01 (2) (e) of the statutes is renumbered 974.09 (1) (c).

24 **SECTION 593.** 969.01 (3) of the statutes is renumbered 969.52 and amended to  
25 read:

**ASSEMBLY BILL 383**

1           **969.52 Bail for witness Arrest of a witness and release on bond.** If A  
2           judge may issue a warrant for the arrest of a person who is not in court, other than  
3           the defendant, if it appears by from an affidavit or examination under oath that there  
4           is probable cause to believe that the person's testimony of a person is material in any  
5           felony a criminal proceeding and that it may become impracticable to secure the  
6           person's presence by subpoena, the judge may require such person to give bail for.  
7           Upon return of the warrant, the court may set conditions of release to secure the  
8           person's appearance as a witness. If the witness is not in court, a warrant for the  
9           person's arrest may be issued and upon return thereof the court may require the  
10           person to give bail as provided in s. 969.03 for the person's appearance as a witness.  
11           If the person fails to give bail, the person may be committed satisfy the conditions  
12           of release, the court may commit the person to the custody of the sheriff for a period  
13           not to exceed 15 days, within which time the person's deposition shall be taken as  
14           provided in, upon notice to the parties under s. 967.04 967.21. After the deposition  
15           has been subscribed, the court shall discharge the witness.

16           **SECTION 594.** 969.01 (4) of the statutes is renumbered 969.33 (1) (intro.) and  
17           amended to read:

18           **969.33 (1) CONSIDERATIONS IN SETTING CONDITIONS OF RELEASE.** (intro.) ~~If bail is~~  
19           ~~imposed, it shall be only in the amount found necessary to assure the appearance of~~  
20           ~~the defendant. Conditions of release, other than monetary conditions, may be~~  
21           ~~imposed for the purpose of protecting members of the community from serious bodily~~  
22           ~~harm or preventing intimidation of witnesses. Proper considerations in In~~  
23           determining whether to release the defendant without bail, monetary conditions, in  
24           fixing monetary conditions in a reasonable amount of bail ~~or, or in~~ imposing other

**ASSEMBLY BILL 383**

1 reasonable conditions of release ~~are: the, the court, judge, or justice may consider,~~  
2 without limitation, any of the following:

3 (a) The ability of the arrested person to give bail, ~~the,~~

4 (b) The nature, number, and gravity of the alleged offenses and the potential  
5 penalty the defendant faces, ~~whether,~~

6 (c) Whether the alleged acts were violent in nature, ~~the,~~

7 (d) The defendant's prior record of criminal convictions and delinquency  
8 adjudications criminal record, if any, ~~the,~~

9 (e) The character, health, residence, and reputation of the defendant, ~~the,~~

10 (f) The character and strength of the evidence which has been presented to the  
11 judge, ~~whether,~~

12 (g) Whether the defendant is currently on probation, extended supervision or  
13 parole, ~~whether,~~

14 (h) Whether the defendant is already on bail or subject to other release  
15 conditions in other pending cases, ~~whether the defendant has been bound over for~~  
16 ~~trial after a preliminary examination, whether,~~

17 (i) Whether the defendant has in the past forfeited bail bond or violated a  
18 condition of release or was a fugitive from justice at the time of arrest, ~~and the,~~

19 (j) The policy against unnecessary detention of the ~~defendant's~~ a defendant  
20 pending trial.

21 **SECTION 595.** 969.02 (title), (1), (2), (3) (a), (b), (c) and (d), (4), (4m), (5), (7), (7m)  
22 and (8) of the statutes are repealed.

23 **SECTION 596.** 969.02 (2m) of the statutes is renumbered 969.33 (8) and  
24 amended to read:

**ASSEMBLY BILL 383**

1           969.33 (8) CREDIT CARDS ACCEPTED. ~~The~~ If the court imposes monetary  
2 conditions of release under this section, the clerk of circuit court may accept, instead  
3 of cash, a credit card or debit card, as defined in s. 59.40 (5) (a) and 1. and 2., ~~instead~~  
4 ~~of cash under sub. (2).~~

5           **SECTION 597.** 969.02 (3) (e) of the statutes, as created by 2011 Wisconsin Act  
6 266, is renumbered 969.33 (5) (g) and amended to read:

7           969.33 (5) (g) If the ~~person~~ defendant is charged with violating a restraining  
8 order or injunction issued under s. 813.12 or 813.125, ~~may require the person~~  
9 requiring the defendant to participate in mental health treatment, a batterer's  
10 intervention program, or individual counseling. ~~The judge~~ court shall consider a  
11 request by the district attorney or the petitioner, as defined in s. 301.49 (1) (c), in  
12 determining whether to issue an order under this paragraph.

13           **SECTION 598.** 969.02 (6) of the statutes is renumbered 969.38 (1) (a) and  
14 amended to read:

15           969.38 (1) (a) ~~When -a~~ the court enters a judgment of conviction is entered in  
16 a prosecution for a fine or costs or both in a case in which a cash deposit had been  
17 ~~made in accordance with sub. (2), on a secured appearance bond, the court shall apply~~  
18 the balance of such the deposit, after ~~deduction of~~ deducting the bond costs, shall be  
19 ~~applied first~~ to the payment of any restitution ordered under s. 973.20 and then, if  
20 ordered restitution is satisfied in full, to the payment of the judgment. The court  
21 shall then return any remaining balance of the deposit to the person who made the  
22 deposit.

23           **SECTION 599.** 969.03 of the statutes is repealed.

24           **SECTION 600.** 969.035 of the statutes is renumbered 969.43, and 969.43 (4), (5),  
25 (7), (8) and (10), as renumbered, are amended to read:

**ASSEMBLY BILL 383**

1           969.43 (4) If the court determines that the district attorney has complied with  
2 sub. (3), the court may order that the detention of a person who is currently in custody  
3 be continued or may issue a warrant commanding any law enforcement officer to  
4 bring the defendant without unnecessary delay before the court. When the  
5 defendant is brought before the court, he or she shall be given a copy of the documents  
6 specified in sub. (3) and informed of his or her rights under this section and s. ~~970.02~~  
7 ~~(1) and (6)~~ 971.027.

8           (5) A pretrial detention hearing is a hearing before a court for the purpose of  
9 determining if the continued detention of the defendant is justified. A pretrial  
10 detention hearing may be held in conjunction with a ~~preliminary examination under~~  
11 ~~s. 970.03 or a~~ conditional release revocation hearing under s. ~~969.08 (5) (b)~~ 969.51  
12 (1), but separate findings shall be made by the court relating to the pretrial  
13 detention, ~~preliminary examination~~ and conditional release revocation. The pretrial  
14 detention hearing shall be commenced within 10 days from the date the defendant  
15 is detained or brought before the court under sub. (4). The defendant may not be  
16 denied release from custody ~~in accordance with s. 969.03~~ for more than 10 days prior  
17 to the hearing required by this subsection.

18           (7) If the court does not make the findings under sub. (6) (a) and (b) and the  
19 defendant is otherwise eligible, the defendant shall be released from custody with or  
20 without conditions in accordance with ~~s. 969.03~~ ss. 969.31 to 969.33.

21           (8) If the court makes the findings under sub. (6) (a) and (b), the court may deny  
22 bail to the defendant for an additional period not to exceed 60 days following the  
23 hearing. If the time period passes and the defendant is otherwise eligible, he or she  
24 shall be released from custody with or without conditions in accordance with s. ~~s.~~  
25 ~~969.03~~ ss. 969.31 to 969.33.

**ASSEMBLY BILL 383**

1           **(10)** The defendant may petition the court to be released from custody with or  
2 without conditions in accordance with ~~s. 969.03~~ ss. 969.31 to 969.33 at any time.

3           **SECTION 601.** 969.04 of the statutes is renumbered 969.40 and amended to  
4 read:

5           **969.40 Surety may satisfy default.** ~~Any~~ If a defendant fails to comply with  
6 the conditions of his or her bond, any surety may, ~~after default,~~ pay to the clerk of the  
7 court the amount for which the surety was bound, or such lesser sum as the court,  
8 after notice and hearing, may direct, and thereupon be discharged.

9           **SECTION 602.** 969.05 of the statutes is repealed.

10          **SECTION 603.** 969.065 of the statutes is renumbered 969.34 and amended to  
11 read:

12          **969.34 Judicial conference; bail alternatives Bail schedule.** The judicial  
13 conference shall develop guidelines, which the supreme court shall adopt by rule, for  
14 cash bail for releasing on bond persons accused of misdemeanors ~~which the supreme~~  
15 court shall adopt by rule. The guidelines shall relate primarily to individuals. ~~The~~  
16 guidelines and may be revised from time to time ~~under this section.~~

17          **SECTION 604.** 969.07 of the statutes is renumbered 969.36 and amended to  
18 read:

19          **969.36 Taking of bail cash deposit by law enforcement officer.** When  
20 bail has monetary conditions of release have been set before the initial appearance  
21 for a particular defendant, any law enforcement officer may take bail in accordance  
22 with ~~s. 969.02~~ a cash deposit and release the defendant to appear at a specified time  
23 and place in accordance with the conditions of the appearance stated in the bond.  
24 Bail shall not be required of a defendant who has been cited for commission of a  
25 misdemeanor in accordance with ~~s. 968.085.~~ The law enforcement officer shall give

**ASSEMBLY BILL 383**

1 a receipt to the defendant for the ~~bail so taken~~ deposit and within a reasonable time  
2 deposit the bail it with the clerk of the court ~~before whom~~ where the defendant is to  
3 appear. ~~Bail taken by a law enforcement officer may be taken~~ A law enforcement  
4 officer may take a cash deposit only at a sheriff's office or police station. ~~The receipts~~  
5 ~~shall be numbered serially and shall be in triplicate, one copy for the defendant, one~~  
6 ~~copy to be filed with the clerk and one copy to be filed with the police or sheriff's~~  
7 ~~department which takes the bail.~~ This section does not require the release of a  
8 defendant from custody when an officer is of the opinion that the defendant is not in  
9 a fit condition to care for his or her own safety or would constitute, because of his or  
10 her physical condition, a danger to the safety of others. If a defendant is not released  
11 under this section, s. ~~970.01~~ 971.015 (1) shall apply.

12 **SECTION 605.** 969.08 (title) of the statutes is renumbered 969.51 (title) and  
13 amended to read:

14 **969.51 (title) ~~Grant, reduction, increase or revocation~~ Revocations of**  
15 **conditions of defendant's release.**

16 **SECTION 606.** 969.08 (1), (2), (3) and (4) of the statutes are repealed.

17 **SECTION 607.** 969.08 (5) (a) of the statutes is renumbered 969.51 (1) (a).

18 **SECTION 608.** 969.08 (5) (b) 1. of the statutes is renumbered 969.51 (1) (b) 1. and  
19 amended to read:

20 969.51 (1) (b) 1. If the court determines that the state has complied with par.  
21 (a), the court may issue a warrant commanding any law enforcement officer to bring  
22 the defendant without unnecessary delay before the court. When the defendant is  
23 brought before the court, he or she shall be given a copy of the documents specified  
24 in par. (a) and informed of his or her rights under s. ~~970.02 (1) and (6)~~ 971.027. The  
25 court may hold the defendant in custody and suspend the previously imposed



**ASSEMBLY BILL 383**

1 conditions of release pending a hearing on the alleged breach. ~~The hearing under~~  
2 ~~this paragraph and the preliminary examination under s. 970.03, if required, shall~~  
3 ~~be a combined hearing, with the court making the separate findings required under~~  
4 ~~this paragraph and s. 970.03 at the conclusion of the combined hearing.~~ The hearing  
5 shall be commenced within 7 days from the date the defendant is taken into custody.  
6 The defendant may not be held without setting conditions of release for more than  
7 7 days unless a hearing is held and the findings required by this paragraph are  
8 established.

9 **SECTION 609.** 969.08 (5) (b) 2. of the statutes is renumbered 969.51 (1) (b) 2.

10 **SECTION 610.** 969.08 (5) (b) 3. of the statutes is renumbered 969.51 (1) (b) 3. and  
11 amended to read:

12 969.51 (1) (b) 3. Upon a finding by the court that the state has established by  
13 clear and convincing evidence that the defendant has committed a serious crime  
14 while on conditional release, the court may revoke the release of the defendant and  
15 hold the defendant for trial without setting conditions of release. No reference may  
16 be made during the trial of the offense to the court's finding in the hearing. No  
17 reference may be made in the trial to any testimony of the defendant at the hearing,  
18 except if the testimony is used for impeachment purposes. If the court does not find  
19 that the state has established by clear and convincing evidence that the defendant  
20 has committed a serious crime while on conditional release, the defendant shall be  
21 released on bail or other conditions deemed appropriate by the court.

22 **SECTION 611.** 969.08 (5) (b) 4. of the statutes is renumbered 969.51 (1) (b) 4. and  
23 amended to read:

24 969.51 (1) (b) 4. If the release of any defendant is revoked under subd. 3., the  
25 defendant may demand and shall be entitled to be brought to trial on the offense with

**ASSEMBLY BILL 383**

1 respect to which he or she was formerly released on conditions within 60 days after  
2 the date on which he or she appeared before the court under subd. 1. If the defendant  
3 is not brought to trial within the 60-day period he or she shall not be held longer  
4 without setting conditions of release and shall be released on ~~bail or other~~ conditions  
5 deemed appropriate by the court. In computing the 60-day period, the court shall  
6 omit any period of delay if the court finds that the delay results from a continuance  
7 granted at the exclusive request of the defendant.

8 **SECTION 612.** 969.08 (5) (b) 5. of the statutes is renumbered 969.51 (1) (b) 5.

9 **SECTION 613.** 969.08 (6) of the statutes is renumbered 969.51 (2).

10 **SECTION 614.** 969.08 (7) of the statutes is renumbered 969.51 (3) and amended  
11 to read:

12 969.51 (3) If a person is charged with the commission of a serious crime in a  
13 county other than the county in which the person was released on conditions, the  
14 district attorney and court may proceed under sub. ~~(6)~~ (1) and certify the findings to  
15 the ~~circuit~~ court for the county in which the person was released on conditions. That  
16 ~~circuit~~ court shall make the release revocation decision based on the certified  
17 findings.

18 **SECTION 615.** 969.08 (8) of the statutes is renumbered 969.51 (4) and amended  
19 to read:

20 969.51 (4) Information stated in, or offered in connection with, any order  
21 entered under this chapter setting ~~bail or other~~ conditions of release need not  
22 conform to the rules of evidence, except as provided under sub. ~~(5)~~ (1) (b) 2. or s.  
23 901.05.

24 **SECTION 616.** 969.08 (9) of the statutes is renumbered 969.51 (5).

**ASSEMBLY BILL 383**

1           **SECTION 617.** 969.08 (9m) of the statutes is renumbered 969.51 (6) and  
2 amended to read:

3           969.51 **(6)** A person who has had ~~bail~~ bond revoked under this section is entitled  
4 to placement of his or her case on an expedited trial calendar and his or her trial shall  
5 be given priority.

6           **SECTION 618.** 969.08 (10) of the statutes is renumbered 969.51 (7).

7           **SECTION 619.** 969.09 (title), (1) and (3) of the statutes are repealed.

8           **SECTION 620.** 969.09 (2) of the statutes is renumbered 974.09 (2) and amended  
9 to read:

10           974.09 **(2)** If the defendant is ~~admitted to bail upon~~ released on conditions  
11 pending appeal, the conditions of the bond shall be that the defendant will duly  
12 prosecute the defendant's appeal, that the defendant will appear at such the time  
13 and place as that the court directs, and that, if the judgment is affirmed or reversed  
14 and remanded for a new trial or further proceedings upon notice after remittitur, the  
15 defendant will surrender to the sheriff of the county in which the defendant was  
16 tried.

17           **SECTION 621.** 969.10 of the statutes is amended to read:

18           **969.10 Notice of change of address.** A person who has been released on bail  
19 ~~or other~~ conditions shall give written notice to the clerk of any change in his or her  
20 address within 48 hours after the change. This requirement shall be printed on all  
21 bonds.

22           **SECTION 622.** 969.11 of the statutes is renumbered 969.35 and amended to  
23 read:

24           **969.35 Release upon arrest in another county.** **(1)** If the defendant is  
25 arrested in a county other than the county in which the offense was committed may

**ASSEMBLY BILL 383**

1 ~~be tried under s. 970.14~~, he or she shall, without unreasonable delay, ~~either be~~  
2 ~~brought before a judge of the county in which arrested~~ and for the purpose of setting  
3 ~~bail or other conditions of release~~, be brought before a judge of either the county  
4 where he or she was arrested or ~~be returned to the county in which~~ where the offense  
5 ~~was committed. The~~ may be tried under s. 970.14. If the defendant is brought before  
6 a judge in the county where he or she was arrested, the judge shall release him or  
7 her on conditions imposed in accordance with this chapter to appear before a court  
8 in the county in which the offense was committed at a specified time and place.

9 (2) ~~If the defendant is released on bail or other conditions pursuant to a judge~~  
10 ~~of a county other than the county where the offense may be tried under s. 970.14~~  
11 ~~released the defendant under~~ sub. (1), the judge shall make a record of the  
12 proceedings ~~and~~, shall certify his or her minutes ~~thereof~~ of the proceedings, and shall  
13 forward the bond ~~and bail~~ to the court before whom the defendant is bound to appear.

14 **SECTION 623.** 969.12 of the statutes is renumbered 969.39.

15 **SECTION 624.** 969.13 of the statutes is repealed.

16 **SECTION 625.** 969.14 of the statutes is repealed.

17 **SECTION 626.** Subchapter I (title) of chapter 969 [precedes 969.15] of the  
18 statutes is created to read:

**CHAPTER 969****SUBCHAPTER I****ARRESTS, SUMMONSES, AND CITATIONS**

22 **SECTION 627.** 969.15 of the statutes is created to read:

23 **969.15 Securing the defendant's initial appearance.** The initial  
24 appearance of a person charged with a crime may be secured in any of the following  
25 ways:

**ASSEMBLY BILL 383**

- 1           (1) By the person's voluntary appearance.
- 2           (2) By the person's appearance in response to a citation.
- 3           (3) By the person's appearance in response to a summons.
- 4           (4) By the person's arrest, with or without a warrant.
- 5           (5) By the person's appearance in response to a condition of release from  
6 custody.
- 7           (6) By the person's appearance in response to a judicial order to produce a  
8 person already in custody.

9           **SECTION 628.** 969.19 of the statutes is created to read:

10           **969.19 Probable cause determination for warrantless arrests.** For any  
11 person who is arrested without a warrant and not sooner released from custody,  
12 within 48 hours after the arrest a judge shall determine whether there was probable  
13 cause to arrest the person. After 48 hours, including weekends and holidays, have  
14 elapsed from the arrest of the person with no judicial determination of probable  
15 cause the person shall be released under s. 969.32 (1) unless the delay is excused by  
16 the existence of a bona fide emergency or other extraordinary circumstance.

17           **SECTION 629.** 969.20 (2) of the statutes is created to read:

18           **969.20 (2) WARRANT WITHOUT A CRIMINAL COMPLAINT.** Upon the request of the  
19 district attorney and subject to sub. (8), a judge may issue an arrest warrant without  
20 a criminal complaint if the judge determines, based on an affidavit filed with the  
21 court or an examination under oath of a person, that there is probable cause to  
22 believe that an offense has been committed and that the person named in the  
23 warrant has committed it.

24           **SECTION 630.** 969.20 (6) of the statutes is created to read:

**ASSEMBLY BILL 383**

1           969.20 (6) CONDITIONS OF RELEASE ON WARRANT. A judge issuing a warrant may  
2 specify conditions of release.

3           **SECTION 631.** 969.20 (7) (title) of the statutes is created to read:

4           969.20 (7) (title) SUMMONS IN LIEU OF WARRANT.

5           **SECTION 632.** 969.21 (title) of the statutes is created to read:

6           **969.21 (title) Arrest warrants.**

7           **SECTION 633.** 969.24 (2m) of the statutes is created to read:

8           969.24 (2m) RELEASE AFTER CITATION. A law enforcement officer citing a person  
9 for a misdemeanor shall release the person without a cash bond unless any of the  
10 following apply:

11           (a) The accused has not given proper identification.

12           (b) The accused is not willing to sign the citation.

13           (c) The accused appears to represent a danger of harm to himself or herself,  
14 another person or property.

15           (d) The accused cannot show sufficient evidence of ties to the community.

16           (e) The accused has previously failed to appear in response to a citation,  
17 subpoena, summons, or order of the court.

18           (f) Arrest or further detention appears necessary to carry out legitimate  
19 investigative action in accordance with law enforcement agency policies.

20           **SECTION 634.** 969.25 of the statutes is created to read:

21           **969.25 Release on bond by district attorney. (1)** (a) Except as provided  
22 in s. 969.24, upon consent of the district attorney, an individual who has been  
23 arrested and taken into custody may be released before the initial appearance upon  
24 signing a bond, obligating the individual to appear in court for an initial appearance

**ASSEMBLY BILL 383**

1 at a time and place specified in the bond and to comply with any other specified  
2 conditions required by the district attorney under sub. (2).

3 (b) In determining whether to consent to release on bond, the district attorney  
4 may consider whether any of the following applies:

5 1. The defendant has provided proper identification.

6 2. The defendant is willing to comply with the conditions of the bond.

7 3. The defendant appears to pose a danger to himself or herself, another person,  
8 or property.

9 4. The defendant can show sufficient evidence of ties to the community.

10 5. The defendant has previously failed to appear in response to a citation,  
11 subpoena, summons, or order of court.

12 6. Further detention appears necessary to carry out legitimate investigative  
13 activities.

14 **(2)** The district attorney may not impose monetary conditions of release under  
15 this section. If he or she releases a defendant under this section, the district attorney  
16 shall impose the conditions mandated by ss. 969.33 and 969.27 (6) and may also  
17 impose any of the following conditions:

18 (a) The defendant shall report any change of address within 48 hours to the  
19 district attorney.

20 (b) The defendant shall appear at specified times and places for investigative  
21 purposes.

22 (c) The defendant may not contact, directly or indirectly, specified persons.

23 (d) The defendant may not possess any dangerous weapon.

24 (e) The defendant may not consume any alcoholic beverage.

25 (f) The defendant may not go to designated geographical areas or premises.

**ASSEMBLY BILL 383**

1 (g) The defendant shall submit to supervision by a qualified person or  
2 organization agreeing to supervise the defendant.

3 (h) Any other reasonable, nonmonetary condition.

4 **(3)** Any bond executed under this section shall include all of the following:

5 (a) The conditions of release.

6 (b) Notice that the violation of any condition of release is punishable under s.  
7 946.49.

8 (c) Notice that the defendant is entitled to the assistance of counsel and  
9 instructions for obtaining such assistance if he or she is indigent.

10 (d) Notice that the defendant may move the court to modify the conditions of  
11 release.

12 **(4)** Conditions of release under this section expire upon the initial appearance  
13 unless continued by the judge. Signing a bond under this section does not preclude  
14 the individual from seeking judicial relief from its terms.

15 **(5)** A defendant shall be given a copy of the bond.

16 **SECTION 635.** 969.26 (title) of the statutes is created to read:

17 **969.26 (title) Forms.**

18 **SECTION 636.** 969.26 (3) of the statutes is created to read:

19 969.26 **(3)** CITATION. A citation shall be in substantially the following form:

20 MISDEMEANOR CITATION

21 Section 969.26 Wis. Stats.

22 Deposit Permitted: \$ ...

23 Circuit Court for .... County

24 The undersigned complains for and on behalf of the State of Wisconsin upon  
25 information and belief that on or about .... (day), .... (date of violation), at ....



**ASSEMBLY BILL 383**

1 (time); in .... County, town/ village/ city of ....; .... (defendant’s name); .... (date of  
2 birth), .... (sex), .... (street address, city, state, zip code), .... (race), .... (eye color), ....  
3 (hair color), .... (weight), .... (height); did the following .... (state facts of violation)  
4 in violation of section(s) .... of the .... (year) Wisconsin Statutes and requests that  
5 the defendant may be held to answer for the violation.

6 Dated ....., .... (year)

7 ..... (Signature of officer)

8 Signed by .... (Name), .... (Dept./Agency)

9 ..... (Title), .... (Badge Number)

10 You are hereby notified to appear in the

11  Circuit Court named above

12  District Attorney’s Office

13 located at .... (street address, city)

14 on .... (date), at .... (time).

15 The maximum penalty for this violation is:

16  Fine not to exceed \$10,000 or imprisonment not to exceed 9 months, or both  
17 (Class A Misdemeanor).

18  Fine not to exceed \$1,000 or imprisonment not to exceed 90 days, or both  
19 (Class B Misdemeanor).

20  Fine not to exceed \$500 or imprisonment not to exceed 30 days, or both (Class  
21 C Misdemeanor).

22  Other

23 **PROMISE TO APPEAR**

24 I have received a copy of this citation. I promise to appear in court at the  
25 time and place specified. Signing this citation is not an admission of guilt.

**ASSEMBLY BILL 383**

.... (Defendant’s signature)

.... (Defendant’s address)

.... (Defendant’s phone number)

**ENDORSEMENT BY DISTRICT ATTORNEY**

I have reviewed this citation and approve its use as a criminal complaint under s. 696.10 (6).

Dated ...., .... (year)

.... (District Attorney’s signature)

.... (Title)

**SECTION 637.** Subchapter II (title) of chapter 969 [precedes 969.30] of the statutes is created to read:

**CHAPTER 969**

**SUBCHAPTER II**

**COURT-ORDERED RELEASE**

**SECTION 638.** 969.30 (3) to (7) of the statutes are created to read:

969.30 (3) “Personal recognizance bond” means a bond without monetary conditions of release.

(4) “Secured appearance bond” means a bond with monetary conditions of release that require the depositing of cash or the pledging of property as security. The court may order that the bond be secured by the defendant or by a surety.

(5) “Serious bodily harm” means bodily injury that causes or contributes to the death of a human being; bodily injury that creates a substantial risk of death; bodily injury that causes serious permanent disfigurement; bodily injury that causes a permanent or protracted loss or impairment of the function of any bodily member or organ; or other serious bodily injury.

**ASSEMBLY BILL 383**

1           **(6)** “Surety” means a person who guarantees payment of the amount specified  
2           in a monetary condition of release if the defendant does not appear in court as  
3           required.

4           **(7)** “Unsecured appearance bond” means a bond with monetary conditions of  
5           release that do not require the depositing of cash or the pledging of property as  
6           security.

7           **SECTION 639.** 969.31 (3) of the statutes is created to read:

8           969.31 **(3)** AFTER SENTENCING. After sentencing and before service of the  
9           sentence begins, the trial court may continue the conditions of release or impose new  
10          conditions of release.

11          **SECTION 640.** 969.31 (4) of the statutes is created to read:

12          969.31 **(4)** PENDING APPEAL. Release after sentencing, pending appeal, is  
13          governed by ss. 809.31 and 974.08.

14          **SECTION 641.** 969.32 of the statutes is created to read:

15          **969.32 Types of release.** In any case where release is allowed, the court shall  
16          do one of the following:

17               **(1)** Release the defendant to return on a date certain, without conditions.

18               **(2)** Release the defendant on a personal recognizance bond.

19               **(3)** Release the defendant on an unsecured appearance bond.

20               **(4)** Release the defendant on a secured appearance bond.

21          **SECTION 642.** 969.33 (title) of the statutes is created to read:

22          **969.33 (title) Conditions of release.**

23          **SECTION 643.** 969.33 (2) of the statutes is created to read:

24          969.33 **(2)** RULES OF EVIDENCE DO NOT APPLY. Information stated in or offered in  
25          connection with any order entered under this chapter setting conditions of release

**ASSEMBLY BILL 383**

1 need not conform to the rules of evidence, except as provided under s. 901.05 or  
2 969.51.

3 **SECTION 644.** 969.33 (3) of the statutes is created to read:

4 969.33 (3) MONETARY CONDITIONS. The court may impose monetary conditions  
5 of release only if it finds that there is a reasonable basis to believe that they are  
6 necessary to ensure the defendant's appearance in court. In a misdemeanor case the  
7 amount of money specified in a monetary condition of release may not exceed the  
8 maximum fine provided for the crime charged.

9 **SECTION 645.** 969.33 (4) of the statutes is created to read:

10 969.33 (4) MANDATORY CONDITIONS. The following conditions shall be imposed  
11 as terms of any bond under s. 969.32 (2) to (4) and shall be printed on the bond:

12 (a) The defendant shall appear in the court having jurisdiction on a day certain  
13 and thereafter as ordered until discharged on final order of the court and shall  
14 submit to the orders and process of the court.

15 (b) The defendant shall give written notice to the clerk of any change in his or  
16 her address within 48 hours after the change.

17 (c) The defendant may not commit any crime.

18 (d) The defendant shall not violate, cause any person to violate, or permit any  
19 person to violate on the defendant's behalf ss. 940.22 to 940.45.

20 **SECTION 646.** 969.33 (5) to (7) of the statutes are created to read:

21 969.33 (5) OTHER CONDITIONS. Whenever a defendant is released on bond under  
22 s. 969.32 (2) to (4), the court may impose reasonable conditions other than those  
23 required under sub. (4), including conditions doing any of the following:

24 (a) Prohibiting the defendant from contacting, directly or indirectly, specified  
25 persons or going to specified places.

**ASSEMBLY BILL 383**

1 (b) Prohibiting the defendant from possessing any dangerous weapon.

2 (c) Prohibiting the defendant from consuming alcohol beverages.

3 (d) Restricting the travel, association, or place of residence of the defendant.

4 (e) Requiring that the defendant return to custody after specified hours. The  
5 charges authorized by s. 303.08 (4) and (5) do not apply under this paragraph.

6 (f) Placing the defendant under the supervision of a designated person or  
7 organization agreeing to supervise the defendant.

8 **(6) COPY OF BOND TO DEFENDANT.** The court shall provide the defendant a copy  
9 of his or her bond.

10 **(7) MODIFYING CONDITIONS OF RELEASE.** Upon motion by the state or the  
11 defendant, the court before which the action is pending may, following a hearing,  
12 modify conditions of release or grant release if it has been previously revoked under  
13 s. 969.51. Reasonable notice of the hearing shall be given to all parties.

14 **SECTION 647.** 969.37 of the statutes is created to read:

15 **969.37 Return of cash deposit to a 3rd party.** A person other than the  
16 defendant who has deposited cash to obtain the release of the defendant on a secured  
17 appearance bond, may, prior to the entry of a judgment of conviction or a judgment  
18 of forfeiture under s. 969.42, apply to the court for an order returning the deposit.  
19 After notice to the parties, the court shall hold a hearing at which the defendant must  
20 be present. The court shall determine whether to remit the cash deposit in whole or  
21 in part and may review and modify the conditions of release.

22 **SECTION 648.** 969.38 of the statutes is created to read:

23 **969.38 Disposition of cash deposits. (1) DEPOSIT APPLIED TO FINE OR COSTS.**

24 (b) All secured appearance bonds shall include notice of the requirements of  
25 par. (a).

**ASSEMBLY BILL 383**

1           **(2) RETURN OF DEPOSIT.** If the complaint against the defendant is dismissed or  
2 the defendant is acquitted in a case in which a cash deposit has been made on a  
3 secured appearance bond, the entire sum deposited shall be returned. A deposit by  
4 a surety shall be returned to the person who made the deposit.

5           **(3) FORFEITURE EXCEPTION.** Subsections (1) (a) and (2) do not apply if a cash  
6 deposit is forfeited under s. 969.42.

7           **SECTION 649.** 969.41 of the statutes is created to read:

8           **969.41 Discharge of surety.** When a surety desires to be discharged from the  
9 obligations of his or her bond, he or she may apply to the court for an order to that  
10 effect. After notice to the parties, the court shall hold a hearing at which the  
11 defendant must be present. The court shall determine whether to discharge the  
12 surety and may review and modify the conditions of release.

13           **SECTION 650.** 969.42 of the statutes is created to read:

14           **969.42 Forfeiture. (1)** If the defendant does not comply with the conditions  
15 of the bond, the court may order the bail forfeited and a judgment of bail forfeiture  
16 entered. Immediately after the order is entered, the clerk shall mail notice of the  
17 order of judgment of bail forfeiture to the defendant and the defendant's sureties.  
18 No other notice is required.

19           **(2)** By entering into a bond, the defendant and any sureties submit to the  
20 jurisdiction of the court for the purposes of determining their liability under the  
21 bond. Their obligations under the bond may be enforced without the necessity of an  
22 independent action.

23           **(3)** If the court enters a judgment of bail forfeiture, any cash deposit made with  
24 the clerk pursuant to this subchapter shall be applied to the payment of costs. If any

**ASSEMBLY BILL 383**

1 amount of the deposit remains after the payment of costs, it shall be applied to the  
2 payment of the judgment of bail forfeiture.

3 (4) Within 30 days after the entry of a judgment of bail forfeiture, the court may  
4 order the judgment set aside upon such conditions as the court imposes if it appears  
5 that justice does not require the enforcement of the judgment of bail forfeiture.

6 **SECTION 651.** Subchapter III (title) of chapter 969 [precedes 969.50] of the  
7 statutes is created to read:

**CHAPTER 969****SUBCHAPTER III****ENFORCEMENT OF APPEARANCE****REQUIREMENTS AND CONDITIONS OF****RELEASE**

13 **SECTION 652.** 969.50 (2) and (3) of the statutes are created to read:

14 969.50 (2) A court issuing a bench warrant under this section may specify  
15 monetary conditions of release on the warrant.

16 (3) If monetary conditions of release are not specified on the bench warrant,  
17 a defendant or witness arrested pursuant to the warrant is not eligible for release  
18 before appearing in court.

19 **SECTION 653.** Chapter 970 (title) of the statutes is repealed and recreated to  
20 read:

**CHAPTER 970****COMMENCEMENT OF PROSECUTION**

23 **SECTION 654.** 970.01 (title) of the statutes is repealed.

24 **SECTION 655.** 970.01 (1) of the statutes is renumbered 971.015 (1) (a) and  
25 amended to read:

**ASSEMBLY BILL 383**

1           971.015 (1) (a) ~~Any~~ Except as provided in par. (b), any person who is arrested  
2 and not sooner released from custody shall be taken within a reasonable time before  
3 a judge in brought before the court for the county in which the offense was alleged  
4 to have been committed. The may be tried under s. 970.14 for an initial appearance  
5 may be conducted on the record by telephone or live audiovisual means under s.  
6 967.08. If the within a reasonable time after the day of arrest. In no event shall an  
7 arrested person be held for more than 96 hours, including weekends and holidays,  
8 without a court determination regarding conditions of release under s. 969.33.

9           **(3) TELEPHONE PROCEEDINGS.** When an initial appearance is conducted by  
10 telephone or live audiovisual means under s. 967.14 or video conferencing under  
11 subch. III of ch. 885, the person may waive physical appearance. Waiver of physical  
12 appearance shall be placed on the record of the initial appearance and does not waive  
13 other grounds for challenging the court's personal jurisdiction. If the person does not  
14 wave physical appearance, conducting the initial appearance by telephone or live  
15 audiovisual means under s. 967.08 defendant does not waive any grounds ground  
16 that the person defendant has for challenging the court's personal jurisdiction.

17           **SECTION 656.** 970.01 (2) of the statutes is repealed.

18           **SECTION 657.** 970.02 (title) of the statutes is repealed.

19           **SECTION 658.** 970.02 (1) (intro.) of the statutes is repealed.

20           **SECTION 659.** 970.02 (1) (a) of the statutes is renumbered 971.027 (3) and  
21 amended to read:

22           971.027 (3) **NOTICE OF THE CHARGES AND PENALTIES.** ~~Of the charge against the~~  
23 ~~defendant and shall furnish~~ The court shall ensure that the district attorney has  
24 furnished the defendant with a copy of the complaint which shall contain the possible  
25 penalties for the offenses set forth therein. In the case of a felony, the judge shall also



**ASSEMBLY BILL 383**

1 ~~inform the defendant of the~~ and ensure that the defendant has been informed of the  
2 nature of the charge and the penalties for the felony each crime with which the  
3 defendant is charged. The district attorney shall read the complaint to the defendant  
4 at the defendant's request.

5 **SECTION 660.** 970.02 (1) (b) and (6) of the statutes are consolidated,  
6 renumbered 971.027 (1) and amended to read:

7 971.027 (1) RIGHT TO COUNSEL. ~~Of~~ If the defendant is not represented by  
8 counsel, the court shall inform the defendant of his or her right to counsel and, in any  
9 case required by the U.S. or Wisconsin constitution, that an attorney will be  
10 appointed to represent him or her if he or she is financially unable to employ counsel.  
11 ~~(6)~~ In all cases in which the defendant is entitled to legal representation under the  
12 constitution or laws of the United States or this state, the judge or magistrate shall  
13 inform the defendant of his or her right to counsel and, if the defendant claims or  
14 appears to be indigent, shall refer the person defendant to the authority for indigency  
15 determinations specified under s. 977.07 (1). Unless the defendant knowingly and  
16 voluntarily waives the right to counsel, the court may not permit an unrepresented  
17 defendant to enter a plea other than not guilty.

18 **SECTION 661.** 970.02 (1) (c) of the statutes is repealed.

19 **SECTION 662.** 970.02 (2) of the statutes is renumbered 971.027 (5) and amended  
20 to read:

21 971.027 (5) CONDITIONS OF RELEASE. ~~The judge~~ At the initial appearance, the  
22 court shall admit the defendant to bail in accordance with establish, modify, or  
23 continue the conditions of the defendant's release under ch. 969.

24 **SECTION 663.** 970.02 (3) of the statutes is repealed.

25 **SECTION 664.** 970.02 (4) of the statutes is repealed.

**ASSEMBLY BILL 383**

1           **SECTION 665.** 970.02 (5) of the statutes is repealed.

2           **SECTION 666.** 970.02 (7) of the statutes is renumbered 971.027 (6).

3           **SECTION 667.** 970.02 (8) of the statutes, as created by 2013 Wisconsin Act 20,  
4 is renumbered 971.027 (7).

5           **SECTION 668.** 970.03 (title), (1), (2), (3), (5), (7), (8), (9), (10), (13) and (14) of the  
6 statutes are repealed.

7           **SECTION 669.** 970.03 (4) of the statutes is renumbered 971.75 (9), and 971.75  
8 (9) (a), as renumbered, is amended to read:

9           971.75 (9) (a) If the ~~defendant~~ juvenile is accused of a crime under s. 940.225,  
10 948.02, 948.025, 948.05, 948.051, 948.06, 948.085, or 948.095, or under s. 940.302 (2),  
11 if the court finds that the crime was sexually motivated, as defined in s. 980.01 (5),  
12 the court may exclude from ~~the~~ any hearing under this section all persons who are  
13 not officers of the court, members of the complainant's or defendant's families or  
14 others considered by the court to be supportive of the complainant or defendant, the  
15 service representative, as defined in s. 895.45 (1) (c), or other persons required to  
16 attend, if the court finds that the state or the ~~defendant~~ juvenile has established a  
17 compelling interest that would likely be prejudiced if the persons were not excluded.  
18 The court may consider as a compelling interest, among others, the need to protect  
19 a complainant from undue embarrassment and emotional trauma.

20           **SECTION 670.** 970.03 (6) of the statutes is renumbered 971.75 (6) (b) and  
21 amended to read:

22           971.75 (6) (b) During ~~the preliminary examination~~ any hearing under this  
23 section, the court may exclude witnesses until they are called to testify, may direct  
24 that persons who are expected to be called as witnesses be kept separate until called,

**ASSEMBLY BILL 383**

1 and may prevent them from communicating with one another until they have been  
2 examined.

3 **SECTION 671.** 970.03 (12) of the statutes is renumbered 971.75 (7), and 971.75  
4 (7) (a) 1., (b) and (c), as renumbered, are amended to read:

5 971.75 (7) (a) 1. "Hospital" has the meaning ~~designated~~ given in s. 50.33 (2).

6 (b) At any ~~preliminary examination hearing under this section~~, a report of one  
7 of the crime laboratory's, the state laboratory of hygiene's, a federal bureau of  
8 investigation laboratory's, a hospital laboratory's, or a local health department's  
9 findings with reference to all or any part of the evidence submitted, certified as  
10 correct by the attorney general, the director of the state laboratory of hygiene, the  
11 director of the federal bureau of investigation, the chief hospital administrator, the  
12 local health officer, as defined in s. 250.01 (5), or a person designated by any of them,  
13 shall, when offered by the state or the accused, be received as evidence of the facts  
14 and findings stated, if relevant. The expert who made the findings need not be called  
15 as a witness.

16 (c) At any ~~preliminary examination hearing under this section~~ in Milwaukee  
17 County, a latent fingerprint report of the city of Milwaukee police department bureau  
18 of identification division's latent fingerprint identification unit, certified as correct  
19 by the police chief or a person designated by the police chief, shall, when offered by  
20 the state or the accused, be received as evidence of the facts and findings stated, if  
21 relevant. The expert who made the findings need not be called as a witness.

22 **SECTION 672.** 970.032 (title) of the statutes is repealed.

23 **SECTION 673.** 970.032 (1) of the statutes is renumbered 971.75 (1) and amended  
24 to read:

**ASSEMBLY BILL 383**

1           971.75 (1) PROBABLE CAUSE HEARING. ~~Notwithstanding s. 970.03, if a~~  
2 ~~preliminary examination is held regarding a juvenile who is subject to the original~~  
3 ~~jurisdiction of~~ If the court of criminal has original jurisdiction over a juvenile under  
4 s. 938.183 (1), the court shall ~~first~~ conduct an evidentiary hearing to determine  
5 ~~whether~~ if there is probable cause to believe that the juvenile has committed the  
6 violation of which he or she is accused under the circumstances specified in s. 938.183  
7 (1) (a), (am), (ar), (b), or (c), ~~whichever is applicable.~~ Notwithstanding s. 908.02,  
8 hearsay is admissible in a hearing under this section.

9           **(3) FINDINGS AT PROBABLE CAUSE HEARING.** (a) ~~If the court does not make that~~  
10 ~~finding~~ find that there is probable cause to believe the juvenile committed the  
11 violation of which he or she is accused under the circumstances specified in s. 938.183  
12 (1) (a), (am), (ar), (b), or (c), whichever is applicable, the court shall order that the  
13 juvenile be discharged, but proceedings may be brought regarding the juvenile under  
14 ch. 938.

15           **SECTION 674.** 970.032 (2) (intro.) of the statutes is renumbered 971.75 (3) (b)  
16 and amended to read:

17           971.75 (3) (b) If the court finds probable cause to believe that the juvenile has  
18 committed the violation of which he or she is accused under the circumstances  
19 specified in s. 938.183 (1) (a), (am), (ar), (b), or (c), the court shall conduct a hearing  
20 under sub. (5) to determine whether to retain jurisdiction or to transfer jurisdiction  
21 to the court assigned to exercise jurisdiction under chs. 48 and 938. The court may  
22 base its finding of probable cause in whole or in part on hearsay admitted under sub.  
23 (1).

**ASSEMBLY BILL 383**

1            (5) FINDINGS AT RETENTION HEARING. The If the court finds probable cause under  
2            sub. (3) (b), it shall retain jurisdiction unless the juvenile proves by a preponderance  
3            of the evidence all of the following:

4            **SECTION 675.** 970.032 (2) (a), (b) and (c) of the statutes are renumbered 971.75  
5            (5) (a), (b) and (c).

6            **SECTION 676.** 970.035 of the statutes is repealed.

7            **SECTION 677.** 970.038 of the statutes is repealed.

8            **SECTION 678.** 970.04 of the statutes is repealed.

9            **SECTION 679.** 970.05 of the statutes is repealed.

10          **SECTION 680.** Subchapter I (title) of chapter 970 [precedes 970.06] of the  
11          statutes is created to read:

**CHAPTER 970**

**SUBCHAPTER I**

**GENERAL PROVISIONS**

15          **SECTION 681.** 970.06 (2) of the statutes is created to read:

16          970.06 (2) When a grand jury indicts a person, a complaint shall be filed.

17          **SECTION 682.** 970.06 (3) of the statutes is created to read:

18          970.06 (3) The trial of a criminal action shall be upon the complaint.

19          **SECTION 683.** 970.06 (4) of the statutes is created to read:

20          970.06 (4) A complaint upon which a criminal action is tried is an information  
21          for the purposes of article I, section 7, of the constitution.

22          **SECTION 684.** 970.08 (2) of the statutes is created to read:

23          970.08 (2) A complaint is filed when the district attorney signs it and files it  
24          with the clerk of the court for the county where the crime was committed.

25          **SECTION 685.** 970.09 (2) of the statutes is created to read:

**ASSEMBLY BILL 383**

1           970.09 (2) The court may allow the district attorney to amend the complaint  
2 after the defendant enters a plea but within a reasonable time before trial if the  
3 amendment does not prejudice the defendant.

4           **SECTION 686.** 970.10 (title), (1) and (3) of the statutes are created to read:

5           **970.10 (title) Dismissing the complaint. (1)** If the district attorney moves  
6 to dismiss a complaint, the trial court shall grant the motion unless the court finds  
7 that dismissal is contrary to the public interest. The motion may not be granted  
8 during the trial without the consent of the defendant.

9           **(3)** Granting a motion made under sub. (1) dismisses the action, and the clerk  
10 shall enter an order to that effect.

11          **SECTION 687.** 970.13 (3) of the statutes is created to read:

12          **970.13 (3) RELIEF FROM PREJUDICIAL JOINDER.** Relief from prejudicial joinder  
13 may be sought under s. 971.68 (2).

14          **SECTION 688.** 970.14 (13) of the statutes is created to read:

15          **970.14 (13)** In an action where the state asserts jurisdiction under s. 939.03 (1)  
16 (b) or (c) and where the place of trial cannot readily be determined under this section,  
17 the trial may be in the county where the defendant intended that the crime be  
18 committed, the county of residence of the intended victims, or, if neither of these  
19 applies, Dane County.

20          **SECTION 689.** 970.15 of the statutes is created to read:

21          **970.15 Deferred and suspended prosecution agreements. (1)**  
22 **DEFINITIONS.** (a) “Deferred prosecution agreement” means an agreement under  
23 which a prosecutor does not file a criminal complaint but may do so in the future.

**ASSEMBLY BILL 383**

1           (b) “Suspended prosecution agreement” means an agreement under which  
2 further prosecution against a person is suspended after a prosecutor files a criminal  
3 complaint against the person.

4           **(2) DEFERRED PROSECUTION AGREEMENTS.** The same standards that apply to a  
5 district attorney’s charging authority govern the district attorney’s authority to  
6 enter into a deferred prosecution agreement. A deferred prosecution agreement is  
7 enforceable in the same manner as a plea agreement.

8           **(3) SUSPENDED PROSECUTION AGREEMENTS.** The same standards that apply to a  
9 court’s authority to schedule cases and grant continuances apply to a court’s  
10 authority to suspend prosecution when the parties have reached a suspended  
11 prosecution agreement. The court’s authority to suspend prosecution includes the  
12 authority to defer or delay the acceptance of a plea or to withhold entry of judgment.  
13 A suspended prosecution agreement is enforceable in the same manner as a plea  
14 agreement.

15           **(4) ADMISSIONS AND STATEMENTS.** Consent to, or participation in, a deferred  
16 prosecution agreement or a suspended prosecution agreement is not an admission  
17 of guilt and is not admissible in any trial relating to the charge to which the  
18 agreement pertains. No statement made by a person in connection with a deferred  
19 prosecution agreement or a suspended prosecution agreement is admissible in any  
20 trial relating to the charge to which the agreement pertains.

21           **(5) IMMUNITY.** Any organization, agency, or individual acting in good faith for  
22 which or for whom a person is assigned to work pursuant to a deferred prosecution  
23 agreement or a suspended prosecution agreement has immunity from any civil  
24 liability in excess of \$25,000 for acts or omissions by the person or affecting the  
25 person.

**ASSEMBLY BILL 383**

1           **SECTION 690.** Subchapter II (title) of chapter 970 [precedes s. 970.21 of the  
2 statutes] is created to read:

3                                   **CHAPTER 970**

4                                   SUBCHAPTER II

5                                   PARTICULAR OFFENSES

6           **SECTION 691.** Chapter 971 (title) of the statutes is repealed and recreated to  
7 read:

8                                   **CHAPTER 971**

9                                   **PRETRIAL PROCEDURES**

10          **SECTION 692.** 971.01 of the statutes is repealed.

11          **SECTION 693.** Subchapter I (title) of chapter 971 [precedes 971.013] of the  
12 statutes is created to read:

13                                   **CHAPTER 971**

14                                   SUBCHAPTER I

15                                   COMMENCEMENT OF PROCEEDINGS

16          **SECTION 694.** 971.015 (title) of the statutes is created to read:

17          **971.015 (title) Initial court appearance.**

18          **SECTION 695.** 971.015 (1) (title) of the statutes is created to read:

19          **971.015 (1) (title) PERSONS IN CUSTODY.**

20          **SECTION 696.** 971.015 (1) (b) of the statutes is created to read:

21          **971.015 (1) (b)** A person in custody outside the county in which the offense was  
22 alleged to have been committed shall have an initial appearance in the court for the  
23 county in which the offense was alleged to have been committed as soon as  
24 practicable. Conditions of release may be set under s. 969.33.

25          **SECTION 697.** 971.015 (2) of the statutes is created to read:



**ASSEMBLY BILL 383**

1           971.015 (2) PERSONS NOT IN CUSTODY. A person who is arrested and released or  
2           who is issued a citation is entitled to an initial appearance within a reasonable time  
3           after being arrested or cited.

4           **SECTION 698.** 971.015 (4) of the statutes is created to read:

5           971.015 (4) DISCOVERY BEFORE THE INITIAL APPEARANCE. The district attorney  
6           may provide discovery before the initial appearance.

7           **SECTION 699.** 971.02 of the statutes is repealed.

8           **SECTION 700.** 971.027 (intro.) of the statutes is created to read:

9           **971.027 Duties at the initial appearance.** (intro.) All of the following shall  
10          occur at the initial appearance:

11          **SECTION 701.** 971.027 (2) and (4) of the statutes are created to read:

12          971.027 (2) PROBABLE CAUSE DETERMINATION. The court shall determine  
13          whether the facts alleged in the complaint establish probable cause to believe that  
14          the defendant committed the crime charged. If probable cause exists as to at least  
15          one count of the complaint, the court may set a date for further proceedings and, if  
16          the defendant requests, shall set a date for trial. Notwithstanding a finding of  
17          probable cause under this subsection, the defendant may move to dismiss a  
18          complaint or any count in a complaint based on lack of probable cause by filing a  
19          motion under s. 971.65.

20          (4) REQUEST FOR AND ENTRY OF PLEA. The court shall ask for the defendant's plea  
21          to the charges in the complaint. If the defendant stands mute or refuses to plead to  
22          any charge, the court shall direct the entry of a plea of not guilty on the defendant's  
23          behalf.

24          **SECTION 702.** 971.027 (6) (title) and (7) (title) of the statutes are created to read:

25          971.027 (6) (title) OBTAINING IDENTIFICATION DATA.

**ASSEMBLY BILL 383**

1 (7) (title) OBTAINING BIOLOGICAL SPECIMEN.

2 **SECTION 703.** 971.035 of the statutes is created to read:

3 **971.035 Discovery at the initial appearance. (1) MATERIAL IN THE DISTRICT**  
4 **ATTORNEY'S POSSESSION.** At the initial appearance, the district attorney shall disclose,  
5 if in the district attorney's possession, law enforcement investigative reports relating  
6 to the case and a copy of the defendant's criminal record.

7 (2) TIME OF DISCLOSURE. Disclosure under this section shall be made after the  
8 defendant has obtained or waived legal representation.

9 (3) MANNER OF DISCLOSURE. Disclosure under this section shall be made in the  
10 manner provided in s. 971.51.

11 (4) DELAY FOR GOOD CAUSE SHOWN. For good cause shown, the court may allow  
12 a delay in disclosure under this section.

13 **SECTION 704.** 971.038 of the statutes is created to read:

14 **971.038 Time limits for motions and requests for substitution.** No later  
15 than 10 days after the initial appearance, the defendant may file any motions that  
16 might otherwise be waived by the entry of the plea or a request for substitution of  
17 a judge under s. 967.16.

18 **SECTION 705.** 971.04 (title) of the statutes is renumbered 967.13 (title).

19 **SECTION 706.** 971.04 (1) (intro.) of the statutes is renumbered 967.13 (1) (intro.)  
20 and amended to read:

21 967.13 (1) (intro.) Except as provided in subs. (2) and (3), the s. 967.14, or subch.  
22 III of ch. 885, a defendant who is an individual shall be present for all of the following:

23 **SECTION 707.** 971.04 (1) (a) of the statutes is repealed.

24 **SECTION 708.** 971.04 (1) (b), (c), (d), (e), (f), (g) and (h) of the statutes are  
25 renumbered 967.13 (1) (c), (d), (e), (f), (g), (h) and (j) and amended to read:

**ASSEMBLY BILL 383**

- 1           967.13 (1) (c) ~~At The trial;~~  
2           (d) ~~During The voir dire of the trial jury;~~  
3           (e) ~~At any Any evidentiary hearing;~~  
4           (f) ~~At any Any view by the jury;~~  
5           (g) ~~When the jury returns its The return of the jury's verdict;~~  
6           (h) ~~At the pronouncement The granting of judgment and the imposition of~~  
7 ~~sentence;~~  
8           (j) ~~At any Any other proceeding when ordered by the court.~~

9           **SECTION 709.** 971.04 (2) of the statutes is renumbered 967.13 (2) and amended  
10 to read:

11           967.13 (2) A defendant charged with a misdemeanor may authorize his or her  
12 attorney in writing to act on ~~his or her~~ the defendant's behalf in any manner and,  
13 with prior leave of the court, and may be excused from attendance at attending any  
14 ~~or all proceedings proceeding except entry of a plea of guilty or no contest, sentencing,~~  
15 or a proceeding at which a right personal to the defendant is waived.

16           **SECTION 710.** 971.04 (3) of the statutes is renumbered 967.13 (3) and amended  
17 to read:

18           967.13 (3) If the defendant is present ~~at the beginning of the trial~~ when  
19 jeopardy attaches and thereafter, during the progress of the trial or before the verdict  
20 of the jury has been returned into court, voluntarily absents himself or herself from  
21 the presence of the court without leave of the court, the trial or return of verdict of  
22 the jury in the case shall not thereby be postponed or delayed, but and the trial or  
23 submission of said the case to the jury for verdict and the return of verdict ~~thereon~~,  
24 if required, shall proceed in all respects as though the defendant were present in  
25 court at all times. ~~A defendant need not be present at the pronouncement or entry~~

**ASSEMBLY BILL 383**

1 ~~of an order granting or denying relief under s. 974.02, 974.06, or 974.07. If the~~  
2 ~~defendant is not present, the time for appeal from any order under ss. 974.02, 974.06,~~  
3 ~~and 974.07 shall commence after a copy has been served upon the attorney~~  
4 ~~representing the defendant, or upon the defendant if he or she appeared without~~  
5 ~~counsel. Service of such an order shall be complete upon mailing. A defendant~~  
6 ~~appearing without counsel shall supply the court with his or her current mailing~~  
7 ~~address. If the defendant fails to supply the court with a current and accurate~~  
8 ~~mailing address, failure to receive a copy of the order granting or denying relief shall~~  
9 ~~not be a ground for tolling the time in which an appeal must be taken.~~

10 **SECTION 711.** 971.05 of the statutes is repealed.

11 **SECTION 712.** Subchapter II (title) of chapter 971 [precedes 971.06] of the  
12 statutes is created to read:

**CHAPTER 971****SUBCHAPTER II****PLEAS**

16 **SECTION 713.** 971.06 (1) (title) of the statutes is created to read:

17 971.06 (1) (title) TYPES OF PLEAS.

18 **SECTION 714.** 971.06 (1) (a), (b) and (c) of the statutes are amended to read:

19 971.06 (1) (a) Guilty, which means that the defendant admits the facts  
20 necessary to constitute the crime.

21 (b) Not guilty, which means that the defendant denies the facts necessary to  
22 constitute the crime. A plea of not guilty requires the state to prove the facts  
23 necessary to constitute the crime beyond a reasonable doubt.

24 (c) No contest, subject to the approval of the court which means that the  
25 defendant does not contest the state's ability to prove the facts necessary to

**ASSEMBLY BILL 383**

1 constitute the crime. The court may refuse to allow the entry of a no contest plea after  
2 consideration of the views of the parties and the public interest in the administration  
3 of justice.

4 **SECTION 715.** 971.06 (1) (d) of the statutes is repealed.

5 **SECTION 716.** 971.06 (2) of the statutes is repealed.

6 **SECTION 717.** 971.06 (3) of the statutes is repealed.

7 **SECTION 718.** 971.06 (4) of the statutes is created to read:

8 **971.06 (4) JOINING A PLEA OF NOT GUILTY BY REASON OF MENTAL DISEASE OR DEFECT**  
9 **WITH ANOTHER PLEA.** (a) A defendant may enter a plea of not guilty by reason of mental  
10 disease or defect, which means that at the time of the crime, as a result of mental  
11 disease or defect, the defendant lacked substantial capacity either to appreciate the  
12 wrongfulness of his or her conduct or to conform his or her conduct to the  
13 requirements of law. A defendant who enters a plea of not guilty by reason of mental  
14 disease or defect shall join the plea of not guilty by reason of mental disease or defect  
15 with one of the pleas under sub. (1).

16 (b) If a defendant joins a plea of not guilty by reason of mental disease or defect  
17 with a plea of not guilty, there shall be a separation of the trial of the issues of guilt  
18 and responsibility as provided in s. 975.52 (2) (a).

19 (c) If the defendant joins a plea of not guilty by reason of mental disease or  
20 defect with a plea of guilty or no contest, the court shall first determine whether to  
21 accept the plea of guilty or no contest under s. 975.52 (1). If the plea of guilty or no  
22 contest is accepted, the court shall withhold entry of a judgment of conviction  
23 pending determination of the issue of responsibility, by the court or by a jury, under  
24 s. 975.52 (2). Judgment shall be entered as provided in s. 975.52 (4).

25 **SECTION 719.** 971.065 of the statutes is created to read:

**ASSEMBLY BILL 383**

1           **971.065 Plea agreements. (1)** The district attorney and the defendant may  
2 participate in discussions to reach an agreement that if the defendant enters a plea  
3 of guilty or no contest the district attorney shall take or refrain from taking certain  
4 actions, including one or more of the following:

5           (a) Moving to dismiss or amend one or more charges.

6           (b) Reading in any crime that is uncharged or that is dismissed as part of the  
7 agreement.

8           (c) Recommending, or agreeing not to oppose the defendant's request for, a  
9 particular disposition.

10          (d) Agreeing that a specific disposition is appropriate.

11          **(2)** The court may not participate in discussions to reach an agreement under  
12 this section.

13          **SECTION 720.** 971.07 of the statutes is repealed.

14          **SECTION 721.** 971.08 (title) of the statutes is amended to read:

15          **971.08** (title) **Pleas Accepting pleas of guilty and or no contest;**  
16 **~~withdrawal thereof.~~**

17          **SECTION 722.** 971.08 (1) (a) of the statutes is renumbered 971.08 (1) (ar) and  
18 amended to read:

19          971.08 **(1)** (ar) Address the defendant personally and determine that the  
20 defendant is making the plea is made knowingly, voluntarily, and with  
21 understanding of the meaning and effect of the plea, the nature of the charge crime  
22 to which the plea is entered, and the potential punishment if convicted.

23          **SECTION 723.** 971.08 (1) (ag) of the statutes is created to read:

24          971.08 **(1)** (ag) Require the parties to disclose any plea agreement in open court  
25 or, on a showing of good cause, in camera. Before accepting the plea, the court may

**ASSEMBLY BILL 383**

1 express any reservations it has concerning the appropriateness of any recommended  
2 disposition and shall advise the defendant personally that the court is not bound by  
3 the terms of the plea agreement.

4 **SECTION 724.** 971.08 (1) (am) of the statutes is created to read:

5 971.08 (1) (am) Ask the defendant to state his or her plea on the record.

6 **SECTION 725.** 971.08 (1) (b) of the statutes is repealed and recreated to read:

7 971.08 (1) (b) Make an inquiry sufficient to satisfy the court that there is a  
8 factual basis for a judgment of conviction of the crime to which the plea is entered.

9 **SECTION 726.** 971.08 (1) (d) of the statutes is amended to read:

10 971.08 (1) (d) Inquire of the district attorney whether he or she has complied  
11 with s. 971.095 (2) and (3).

12 **SECTION 727.** 971.08 (3) of the statutes is repealed.

13 **SECTION 728.** 971.085 (title) and (1) (intro.) of the statutes are created to read:

14 **971.085 (title) Effect of a plea of guilty or no contest. (1) (intro.)** A plea  
15 of guilty or no contest waives all nonjurisdictional defects and defenses that occur  
16 prior to the plea except that the following may be reviewed upon appeal from a final  
17 order or judgment:

18 **SECTION 729.** 971.085 (1) (b) of the statutes is created to read:

19 971.085 (1) (b) An order denying a motion to dismiss asserting that the statute  
20 under which the defendant is charged violates the United States or the Wisconsin  
21 constitution.

22 **SECTION 730.** 971.085 (2) of the statutes is created to read:

23 971.085 (2) The court shall permit a defendant who prevails on an appeal of  
24 an order under sub. (1) (a) or (b) to withdraw his or her plea.

25 **SECTION 731.** 971.09 of the statutes is repealed and recreated to read:

**ASSEMBLY BILL 383****971.09 Consolidation; plea to or read-in of crimes committed in several**

**counties. (1) IN GENERAL.** Consolidation refers to the process by which charges pending in more than one county are resolved in a single proceeding in one county. Consolidation is a voluntary procedure, requiring the consent of the defendant and the district attorneys for all counties whose charges are resolved. Consolidated charges shall be resolved by the entry of a plea of guilty or no contest or by an agreement that charged crimes be treated as read-in crimes. A defendant who has already been convicted of but not sentenced for a crime may apply for consolidation of any pending or uncharged crime committed.

**(2) APPLICATION FOR CONSOLIDATION.** A defendant may apply to the district attorney for a county in which a charge against the defendant is pending to resolve in a single proceeding in one county any pending cases. In the application, the defendant shall describe with particularity all the crimes that the defendant seeks to resolve in the single proceeding, indicate the county in which each of the crimes was committed, and indicate the county in which the defendant requests final disposition.

**(3) NOTICE AND CONSENT.** A district attorney who receives an application under sub. (2) shall send a copy of the application to the district attorney for each county in which a crime indicated in the application was committed. A district attorney who receives a copy of the application may execute a written consent to having any crime indicated in the application that is subject to disposition in his or her county resolved in a proceeding in another county. If a district attorney does not consent to having a crime that is subject to disposition in his or her county resolved in another county, the crime may not be resolved under this section.



**ASSEMBLY BILL 383**

1           **(4) AMENDING THE CHARGE; PLEA; READ-IN CRIMES.** (a) If the district attorney to  
2 whom the defendant submitted the application under sub. (2) consents to resolving  
3 a case that is subject to disposition in his or her county in a single proceeding under  
4 this section, the district attorney shall file an amended complaint that charges the  
5 defendant with all crimes identified in consents executed under sub. (3) that are not  
6 to be treated as read-in crimes.

7           (b) To resolve crimes charged in the amended complaint under par. (a) in a  
8 single proceeding, the defendant shall waive in writing or on the record any right to  
9 be tried in the county in which a crime charged in the amended complaint was  
10 committed and enter a plea of guilty or no contest to each crime charged in the  
11 amended complaint.

12           (c) To resolve read-in crimes under this section, the defendant shall affirm his  
13 or her agreement to having the crimes considered at sentencing.

14           (d) A district attorney who executed a consent under sub. (3) need not be  
15 present when the defendant enters his or her plea but the district attorney's written  
16 consent shall be filed with the court.

17           (e) A charge that originated in a county may not be amended or dismissed  
18 without prior written approval of the district attorney for the county in which the  
19 charge originated.

20           **(5) JUDGMENT.** If it accepts the defendant's plea, the court shall enter judgment  
21 and sentence the defendant as though all crimes charged in the amended complaint  
22 were alleged to have been committed in the county where judgment is entered and  
23 may consider at sentencing any read-in crimes affirmed under sub. (4) (c). The clerk  
24 of the court for the county in which judgment is entered shall file a copy of the  
25 judgment of conviction with the clerk of the court for each other county in which

**ASSEMBLY BILL 383**

1 charges addressed in the judgment or treated as read-in crimes originated. The  
2 district attorney for each of the other counties shall then move to dismiss any charges  
3 that are pending in his or her county against the defendant for charges addressed  
4 in the judgment or as treated as read-in crimes.

5 (6) RIGHTS OF CRIME VICTIMS. The duties of the district attorney under ch. 950  
6 and s. 971.095 shall be discharged by the district attorney for the county in which the  
7 crimes occurred, unless otherwise agreed to by the participating district attorneys.

8 (7) PROSECUTION COSTS. The county in which the plea is made shall pay the costs  
9 of prosecution if the defendant does not pay them, and is entitled to retain fees for  
10 receiving and paying to the state any fine that the defendant may pay. The clerk  
11 where the plea is made shall file a copy of the judgment of conviction with the clerk  
12 in each county where a crime covered by the plea was committed. The district  
13 attorney shall then move to dismiss any charges covered by the plea of guilty, which  
14 are pending against the defendant in the district attorney's county, and the charges  
15 shall be dismissed.

16 **SECTION 732.** 971.093 of the statutes is created to read:

17 **971.093 Withdrawal of a plea of guilty or no contest. (1) BEFORE**  
18 **SENTENCING.** The court shall grant a motion that is made before sentencing to  
19 withdraw a plea of guilty or no contest if a fair and just reason for doing so is  
20 established.

21 (2) AFTER SENTENCING. The court shall grant a motion that is made after  
22 sentencing to withdraw a plea of guilty or no contest if the defendant did not  
23 knowingly, voluntarily, and understandingly enter the plea or if withdrawal is  
24 required to prevent manifest injustice.

**ASSEMBLY BILL 383**

1           **(3) REMEDY.** When the court grants a motion to withdraw a plea of guilty or no  
2           contest under this section, the judgment of conviction is vacated, the original charge  
3           or charges reinstated, and the parties are restored to the position they were in before  
4           the plea and any related plea agreement was accepted.

5           **SECTION 733.** 971.095 (2) and (3) of the statutes are amended to read:

6           971.095 **(2)** In any case in which a defendant has been charged with a crime,  
7           the district attorney shall, as soon as practicable, offer all of the victims in the case  
8           who have so requested ~~the opportunity~~ an opportunity to confer with the district  
9           attorney concerning the prosecution of the case and the possible outcomes of the  
10          prosecution, including potential plea agreements and sentencing recommendations.  
11          The duty to confer under this subsection does not limit the obligation of the district  
12          attorney to exercise his or her discretion concerning the handling of any criminal  
13          charge against the defendant.

14          **(3)** At the request of a victim, a district attorney shall make a reasonable  
15          attempt to provide the victim with notice of the date, time, and place of scheduled  
16          court proceedings ~~in a case involving~~ relating to the prosecution of a crime of which  
17          he or she is a victim and any changes in the date, time, or place of a scheduled court  
18          proceeding for which the victim has received notice. This subsection does not apply  
19          to a proceeding held before the initial appearance to set conditions of release under  
20          ch. 969.

21          **SECTION 734.** Subchapter III (title) of chapter 971 [precedes 971.098] of the  
22          statutes is created to read:

23                                           **CHAPTER 971**

24                                           **SUBCHAPTER III**

25                                           **SCHEDULING AND EXPEDITION OF PROCEEDINGS**

**ASSEMBLY BILL 383**

1           **SECTION 735.** 971.098 of the statutes is created to read:

2           **971.098 Scheduling orders; pretrial conferences.** After the defendant  
3 enters a plea, the court may issue a scheduling order and may amend it as  
4 circumstances require. The order shall be in writing and may specify times for  
5 discovery, pretrial motions, notices of intent to offer an alibi or another defense  
6 required to be disclosed, pretrial conferences, trial, or other proceedings.

7           **SECTION 736.** 971.10 (1) (title) of the statutes is created to read:

8           971.10 (1) (title) MISDEMEANORS.

9           **SECTION 737.** 971.10 (1) of the statutes is renumbered 971.10 (1) (a) and  
10 amended to read:

11           971.10 (1) (a) ~~In~~ Subject to sub. (3), the trial of a defendant who is in custody  
12 and is charged only with a misdemeanor actions trial shall commence within ~~60~~ 45  
13 days from the date of the defendant's initial appearance in court.

14           **SECTION 738.** 971.10 (1) (b) of the statutes is created to read:

15           971.10 (1) (b) Subject to sub. (3), the trial of a defendant who is not in custody  
16 and is charged only with a misdemeanor shall commence within 60 days from the  
17 date on which any party demands a speedy trial in writing or on the record. A party  
18 who makes a demand in writing shall serve a copy upon the opposing party.

19           **SECTION 739.** 971.10 (2) (a) of the statutes is renumbered 971.10 (2) and  
20 amended to read:

21           971.10 (2) FELONIES. ~~The~~ Subject to sub. (3), the trial of a defendant who is  
22 charged with a felony shall commence within 90 days from the date trial is demanded  
23 by any party on which any party demands a speedy trial in writing or on the record.  
24 ~~If the~~ A party who makes a demand is made in writing, a copy shall be served serve

**ASSEMBLY BILL 383**

1 a copy upon the opposing party. The demand may ~~not~~ be made ~~until~~ at any time after  
2 the filing of the information complaint or indictment.

3 **SECTION 740.** 971.10 (2) (b) of the statutes is renumbered 971.10 (2g) and  
4 amended to read:

5 971.10 (2g) ASSIGNMENT OF ANOTHER JUDGE. If the court is unable to schedule  
6 a timely trial ~~pursuant to par. (a)~~ under sub. (1) or (2), the court shall request  
7 assignment of another judge ~~pursuant to~~ under s. 751.03.

8 **SECTION 741.** 971.10 (2r) of the statutes is created to read:

9 971.10 (2r) INAPPLICABILITY TO DETAINERS. Subsections (1) to (2m) do not apply  
10 to inmates of a state prison.

11 **SECTION 742.** 971.10 (3) (title) of the statutes is created to read:

12 971.10 (3) (title) CONTINUANCES.

13 **SECTION 743.** 971.10 (3) (a) of the statutes is renumbered 971.10 (3) (a) (intro.)  
14 and amended to read:

15 971.10 (3) (a) (intro.) A court may grant a continuance in a case, upon its own  
16 motion or the motion of any party, if all of the following apply:

17 1. The ends of justice served by ~~taking action~~ a continuance outweigh the best  
18 interest of the public and the defendant in a speedy trial. ~~A continuance shall not~~  
19 ~~be granted under this paragraph unless the~~

20 2. The court sets forth, in on the record of the case, either orally or in writing,  
21 its reasons for finding that ~~the ends of justice served by the granting of the~~  
22 ~~continuance outweigh the best interests of the public and the defendant in a speedy~~  
23 ~~trial~~ subd. 1. applies.

24 **SECTION 744.** 971.10 (3) (b) (intro.), 1. and 2. of the statutes are amended to  
25 read:

**ASSEMBLY BILL 383**

1           971.10 (3) (b) (intro.) ~~The factors, among others, which the court shall~~  
2 ~~consider in~~ In determining whether to grant a continuance under par. (a) ~~are, the~~  
3 court shall consider at least the following factors:

4           1. Whether the failure to grant ~~the a~~ a continuance ~~in the proceeding~~ would be  
5 likely to make ~~a continuation of the proceeding~~ it impossible to continue the  
6 proceeding or result in a miscarriage of justice.

7           2. Whether the case taken as a whole is so unusual and so complex, due to the  
8 number of defendants ~~or~~, the nature of the prosecution, ~~or~~ otherwise, that it is  
9 unreasonable to expect adequate preparation within the periods of time established  
10 by this section.

11           **SECTION 745.** 971.10 (3) (c) of the statutes is amended to read:

12           971.10 (3) (c) ~~No~~ A court may not grant a continuance under par. (a) ~~may be~~  
13 ~~granted~~ because of general congestion of the court's calendar ~~or~~, the state's lack of  
14 diligent preparation, ~~or~~ the state's failure to obtain available witnesses ~~on the part~~  
15 ~~of the state.~~

16           **SECTION 746.** 971.10 (4) of the statutes is renumbered 971.10 (2m) and  
17 amended to read:

18           971.10 (2m) REMEDY. ~~Every~~ If a defendant is not tried ~~in accordance with~~ on  
19 time under this section, ~~the court shall be discharged~~ release him or her from custody  
20 ~~but the obligations of the bond or other~~ and remove any monetary conditions of  
21 release of a defendant imposed as a result of the charge for which the time limit is  
22 exceeded. Nonmonetary conditions shall continue ~~until modified or until the bond~~  
23 ~~is released or the conditions removed~~ or may be imposed.

24           **SECTION 747.** 971.105 of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           **971.105 Child victims and witnesses; duty to expedite proceedings.** In  
2 all criminal and delinquency cases, juvenile fact-finding hearings under s. 48.31 and  
3 juvenile dispositional hearings involving a child as a victim, as defined in s. 950.02  
4 (4), or as a witness, as defined in s. 950.02 (5), the court and the district attorney shall  
5 take appropriate action to ensure a speedy trial in order to minimize the length of  
6 time the child must endure the stress of the child's his or her involvement in the  
7 proceeding. In ruling on any motion or other request for a delay or continuance of  
8 proceedings, the court shall consider and give weight to any adverse impact the delay  
9 or continuance may have on the well-being of a child victim or witness.

10           **SECTION 748.** 971.11 (1) of the statutes is amended to read:

11           971.11 (1) Whenever the warden or superintendent of a state prison receives  
12 notice of an untried criminal case pending in this state against an inmate of ~~a state~~  
13 the prison, the warden or superintendent shall, at the request of the inmate, send  
14 by certified mail a written request to the district attorney for prompt disposition of  
15 the case. The request shall state the sentence then being served, and the date of the  
16 inmate's parole eligibility, if applicable, or the date of release on which the inmate  
17 will be released to extended supervision, or the approximate discharge or conditional  
18 release date, and prior decision relating to parole. ~~If there has been no preliminary~~  
19 ~~examination on the pending case, the request shall state whether the inmate waives~~  
20 ~~such examination, and, if so, shall be accompanied by a written waiver signed by the~~  
21 inmate date on which the inmate will be discharged. If the inmate is already eligible  
22 for parole, the request shall describe any prior decision relating to parole.

23           **SECTION 749.** 971.11 (2) and (3) of the statutes are consolidated, renumbered  
24 971.11 (2) and amended to read:

**ASSEMBLY BILL 383**

1           971.11 (2) If the crime charged in the pending case is a felony, the district  
2 attorney shall either move to dismiss the pending case or arrange a date for  
3 preliminary examination as soon as convenient and notify the warden or  
4 superintendent of the prison thereof, unless such examination has already been held  
5 or has been waived. After the preliminary examination or upon waiver thereof, the  
6 district attorney shall file an information, unless it has already been filed, and mail  
7 a copy thereof to the warden or superintendent for service on the inmate. The district  
8 attorney shall bring the case on for trial within 120 days after receipt of receiving the  
9 request, subject to s. 971.10. ~~(3)~~ (3). If the crime charged in the pending case is a  
10 misdemeanor, the district attorney shall either move to dismiss the charge case or  
11 bring it on for trial within 90 days after receipt of the request.

12           **SECTION 750.** 971.11 (4) of the statutes is amended to read:

13           971.11 (4) If the defendant desires to plead guilty or no contest to the complaint  
14 or to the information served upon him or her, the defendant shall notify the district  
15 attorney thereof. The district attorney shall thereupon arrange for the defendant's  
16 arraignment inmate to enter a plea as soon as possible and the court may receive the  
17 plea and pronounce judgment.

18           **SECTION 751.** 971.11 (5) of the statutes is amended to read:

19           971.11 (5) If the defendant wishes to plead guilty to cases pending in more than  
20 one county, the several district attorneys involved may agree with the defendant and  
21 among themselves for all such pleas to be received in the appropriate court of one of  
22 such counties, and s. 971.09 shall govern the procedure thereon so far as applicable.

23           **SECTION 752.** 971.11 (6) of the statutes is amended to read:

24           971.11 (6) The prisoner shall be delivered warden or superintendent of the  
25 prison shall deliver the inmate into the custody of the sheriff of the county in which



**ASSEMBLY BILL 383**

1 the charge is pending for transportation to the court, and the ~~prisoner shall be~~  
2 ~~retained in that~~ sheriff shall retain custody of the inmate during all proceedings  
3 under this section. The sheriff shall return the ~~prisoner~~ inmate to the prison upon  
4 the completion of the proceedings and during any adjournments or continuances and  
5 ~~between the preliminary examination and the trial~~, except that, if the department  
6 of corrections certifies a jail as being suitable to detain the ~~prisoner~~ inmate, he or she  
7 may be detained there until the court disposes of the case. The ~~prisoner's~~ inmate's  
8 existing sentence continues to run and he or she receives time credit under s. 302.11  
9 while in custody.

10 **SECTION 753.** 971.11 (7) of the statutes is amended to read:

11 971.11 (7) If the district attorney moves to dismiss any pending case ~~or if it is~~  
12 ~~not brought on for trial to which a request under sub. (1) relates or does not bring the~~  
13 case on for trial within the time specified in sub. (2) ~~or (3)~~, the case court shall be  
14 ~~dismissed~~ dismiss the case unless the defendant has escaped or otherwise prevented  
15 the trial, in which case the request for disposition of the case shall be deemed  
16 withdrawn and of no further legal effect. ~~Nothing in this section prevents a trial after~~  
17 ~~the period specified in sub. (2) or (3) if a trial commenced within such period~~  
18 ~~terminates in a mistrial or a new trial is granted.~~

19 **SECTION 754.** 971.12 (title) of the statutes is renumbered 970.13 (title).

20 **SECTION 755.** 971.12 (1) and (2) of the statutes are renumbered 970.13 (1)  
21 (intro.) and (2) and amended to read:

22 970.13 (1) JOINDER OF CRIMES. (intro.) Two or more crimes may be charged in  
23 the same complaint, ~~information or indictment in a separate count for each crime if~~  
24 ~~the crimes charged, whether felonies or misdemeanors, or both, if each is described~~  
25 in a separate count and if any of the following applies:

**ASSEMBLY BILL 383**

1           (a) The crimes are of the same or similar character ~~or,~~

2           (b) The crimes are based on the same act or transaction ~~or on 2.~~

3           (c) The crimes are based on 2 or more acts or transactions connected together  
4 or constituting parts of a common scheme or plan. ~~When a misdemeanor is joined~~  
5 ~~with a felony, the trial shall be in the court with jurisdiction to try the felony.~~

6           (2) JOINDER OF DEFENDANTS. Two or more defendants may be charged in the  
7 same complaint, ~~information or indictment~~ if they are alleged to have participated  
8 in the same act or transaction or in the same series of acts or transactions  
9 constituting one or more crimes. Such defendants may be charged in one or more  
10 counts together or separately ~~and all of the defendants need not be charged in each~~  
11 ~~count.~~

12           **SECTION 756.** 971.12 (3) of the statutes is renumbered 971.68 (2) and amended  
13 to read:

14           971.68 (2) RELIEF FROM PREJUDICIAL JOINDER. If it appears that a defendant or  
15 the state is prejudiced by a joinder of crimes or of defendants ~~in a complaint,~~  
16 ~~information or indictment or by such joinder for trial together,~~ the court may order  
17 separate trials of counts, ~~grant a severance of~~ charges or defendants or provide  
18 whatever other relief justice requires. ~~The district attorney shall advise the court~~  
19 ~~prior to trial if the district attorney intends to use the statement of a codefendant~~  
20 ~~which implicates another defendant in the crime charged. Thereupon, the judge~~  
21 ~~shall grant a severance as to any such defendant.~~

22           **SECTION 757.** 971.12 (4) of the statutes is renumbered 971.67 and amended to  
23 read:

24           **971.67 Trial together Joint trial of separate charges.** The court may order  
25 2 or more complaints, ~~informations or indictments~~ to be tried together if the crimes

**ASSEMBLY BILL 383**

1 and the defendants, if there is more than one, could have been joined in a single  
2 complaint, ~~information~~ or indictment. The procedure shall be the same as if the  
3 prosecution were under such single complaint, ~~information~~ or indictment.

4 **SECTION 758.** 971.13 of the statutes is renumbered 975.30, and 975.30 (3) and  
5 (4), as renumbered, are amended to read:

6 975.30 (3) The fact that a defendant is not competent to proceed does not  
7 preclude any legal objection to the prosecution under s. ~~971.31~~ 971.65 that is  
8 susceptible of fair determination prior to trial and without the personal participation  
9 of the defendant.

10 (4) The fact that a defendant is not competent to proceed does not preclude a  
11 hearing under s. ~~968.38~~ 968.725 (4) or (5) unless the court cannot fairly make the  
12 probable cause finding required to be made at the hearing cannot be fairly made  
13 under s. 968.725 (4) or (5), whichever is applicable, without the personal  
14 participation of the defendant.

15 **SECTION 759.** 971.14 (title) of the statutes is repealed.

16 **SECTION 760.** 971.14 (1g) of the statutes is repealed.

17 **SECTION 761.** 971.14 (1r) (title) of the statutes is repealed.

18 **SECTION 762.** 971.14 (1r) (a) of the statutes is renumbered 975.31 (1).

19 **SECTION 763.** 971.14 (1r) (b) of the statutes is renumbered 975.31 (3) and  
20 amended to read:

21 975.31 (3) If reason to doubt a defendant's competency to proceed arises after  
22 ~~the defendant has been bound over for trial after a preliminary examination, or after~~  
23 ~~a finding of guilty has been rendered by the jury or made by the court, a guilt, no~~  
24 ~~probable cause determination shall not be finding is required and the court shall~~  
25 ~~proceed order an examination of the defendant under sub. (2) s. 975.32.~~

**ASSEMBLY BILL 383**

1           **SECTION 764.** 971.14 (1r) (c) of the statutes is repealed.

2           **SECTION 765.** 971.14 (2) (title) of the statutes is repealed.

3           **SECTION 766.** 971.14 (2) (a) of the statutes is renumbered 975.32 (1) and  
4 amended to read:

5           975.32 (1) If an examination of a defendant is required under s. 975.31, the  
6 court shall order an examination into competency. The court shall may order the  
7 department to conduct the examination or may appoint one or more examiners  
8 having the specialized knowledge determined by the court to be appropriate to  
9 examine and report upon the condition of the defendant. ~~If an inpatient examination~~  
10 ~~is determined by the court to be necessary, the defendant may be committed to a~~  
11 ~~suitable mental health facility for the examination period specified in par. (c), which~~  
12 ~~shall be deemed days spent in custody under s. 973.155. If the examination is to be~~  
13 ~~conducted by the department, the court shall order the individual to the facility~~  
14 ~~designated by the department~~ the court orders the department to conduct an  
15 examination, the department may select the examiner.

16           **SECTION 767.** 971.14 (2) (am) of the statutes is repealed.

17           **SECTION 768.** 971.14 (2) (b) of the statutes is renumbered 975.32 (3) and  
18 amended to read:

19           975.32 (3) If the defendant has been released ~~on bail~~ from custody, the court  
20 shall order an outpatient examination, except that the court may not order an  
21 involuntary inpatient examination unless if the defendant consents to an inpatient  
22 examination, the defendant fails to cooperate in the an outpatient examination, or  
23 the examiner informs the court that inpatient observation is necessary for an  
24 adequate examination.

**ASSEMBLY BILL 383**

1           **SECTION 769.** 971.14 (2) (c) of the statutes is renumbered 975.32 (6) (a) and  
2 amended to read:

3           975.32 **(6)** (a) ~~Inpatient examinations shall be completed and the report of~~  
4 ~~examination filed~~ An examiner ordered to conduct an inpatient examination under  
5 this section shall complete the examination and file a report of the examination  
6 within 15 days after the examination is ordered or as specified in par. (am),  
7 whichever is applicable, unless, for good cause, the facility or examiner appointed by  
8 the court cannot complete the examination within this period and requests an  
9 extension. In that case, if the department is the examiner, within 15 days after the  
10 defendant arrives at the inpatient facility. If the examiner cannot complete the  
11 examination within 15 days and requests an extension, the court may for good cause  
12 allow one 15-day extension of the examination period. Outpatient examinations  
13 shall be completed and the report of examination filed

14           **(b)** An examiner ordered to conduct an outpatient examination under this  
15 section shall complete the examination and file a report of the examination within  
16 30 days after the examination is ordered.

17           **SECTION 770.** 971.14 (2) (d) of the statutes is renumbered 975.32 (5) and  
18 amended to read:

19           975.32 **(5)** ~~If the court orders that the examination be conducted on an inpatient~~  
20 ~~basis~~ a defendant in custody is subject to an inpatient examination ordered under  
21 this section, the sheriff of the county in which the court that ordered the examination  
22 is located shall transport any the defendant not free on bail to the examining facility  
23 where the examination will take place within a reasonable time after the  
24 examination is ordered and shall transport return the defendant to the jail within  
25 a reasonable time after the examination is completed. The examining facility shall

**ASSEMBLY BILL 383**

1 notify the sheriff and county the department of community programs of for the  
2 county in which the court is located receive notice from the examining facility that  
3 when the examination has been is completed.

4 **SECTION 771.** 971.14 (2) (e) of the statutes is renumbered 975.32 (8) and  
5 amended to read:

6 975.32 (8) The An examiner shall personally observe and examine the  
7 defendant and shall have access to ~~his or her~~ the defendant's past or and present  
8 treatment records, as defined under s. 51.30 (1) (b).

9 **SECTION 772.** 971.14 (2) (f) of the statutes is renumbered 975.32 (9).

10 **SECTION 773.** 971.14 (2) (g) of the statutes is renumbered 975.32 (11) and  
11 amended to read:

12 975.32 (11) The defendant also may be examined for competency purposes at  
13 any stage of the competency proceedings by ~~physicians or other experts~~ designated  
14 by the court or chosen by the defendant or by the district attorney, who shall be  
15 permitted reasonable access to the defendant for purposes of the examination. Any  
16 party who intends to call an expert designated or chosen under this subsection as a  
17 witness shall furnish a copy of the expert's report to the opposing party within a  
18 reasonable period of time.

19 **SECTION 774.** 971.14 (3) (intro.) of the statutes is renumbered 975.33 (1) (intro.)  
20 and amended to read:

21 975.33 (1) ~~REPORT CONTENTS.~~ (intro.) The Each court-appointed examiner  
22 shall submit to the court a written report ~~which shall include~~ that includes all of the  
23 following:

24 **SECTION 775.** 971.14 (3) (a) and (b) of the statutes are renumbered 975.33 (1)  
25 (a) and (b).

**ASSEMBLY BILL 383**

1           **SECTION 776.** 971.14 (3) (c) of the statutes is renumbered 975.33 (1) (c) and  
2 amended to read:

3           975.33 (1) (c) The examiner's opinion regarding the defendant's present mental  
4 capacity to understand the criminal proceedings and assist in his or her defense.

5           **SECTION 777.** 971.14 (3) (d) of the statutes is renumbered 975.33 (1) (d) (intro.)  
6 and amended to read:

7           975.33 (1) (d) (intro.) If the examiner reports that the defendant lacks  
8 competency, the is not competent to proceed, all of the following:

9           1. The examiner's opinion regarding the likelihood that the defendant, if  
10 provided treatment, may be restored to competency become competent within the  
11 time maximum period permitted under sub. (5) (a). The examiner shall provide an  
12 of commitment, as defined in s. 975.34 (6) (a).

13           2. The examiner's opinion as to whether the defendant's treatment should  
14 occur be provided in an inpatient facility designated by the department, in a  
15 community-based treatment program under the supervision of the department, or  
16 in a jail or a locked unit of a facility that has entered into a voluntary agreement with  
17 the state to serve as a location for treatment.

18           **SECTION 778.** 971.14 (3) (dm) (intro.) of the statutes is renumbered 975.33 (1)  
19 (e) and amended to read:

20           975.33 (1) (e) If sufficient information is available to the examiner to reach an  
21 opinion, the examiner's opinion on whether the defendant needs medication or  
22 treatment and whether the defendant is not competent to refuse medication or  
23 treatment. The defendant is not competent to refuse medication or treatment if,  
24 because of mental illness, developmental disability, alcoholism or drug dependence,  
25 and after the advantages and disadvantages of and alternatives to accepting the

**ASSEMBLY BILL 383**

1 particular medication or treatment have been explained to the defendant, one of the  
2 following is true:

3 **SECTION 779.** 971.14 (3) (dm) 1. and 2. of the statutes are repealed.

4 **SECTION 780.** 971.14 (3) (e) of the statutes is renumbered 975.33 (1) (g) and  
5 amended to read:

6 975.33 (1) (g) The facts and reasoning, in reasonable detail, upon which the  
7 required findings and opinions under pars. (b) to (dm) are based.

8 **SECTION 781.** 971.14 (4) (title) of the statutes is repealed.

9 **SECTION 782.** 971.14 (4) (a) of the statutes is renumbered 975.33 (2) and  
10 amended to read:

11 975.33 (2) DISCLOSURE. The court shall cause copies of the examiner's report  
12 to be delivered forthwith immediately to the district attorney and the defense  
13 counsel, to the defendant's attorney or the defendant personally if not represented  
14 by counsel. Upon the request of the sheriff or jailer charged with care and control  
15 of the jail in which the defendant is being held pending or during a trial or sentencing  
16 proceeding, the court shall cause a copy of the report to be delivered to the sheriff or  
17 jailer. The sheriff or jailer may provide a copy of the report to the person who is  
18 responsible for maintaining medical records for inmates of the jail, or to a nurse  
19 licensed under ch. 441, or to a physician or physician assistant licensed under subch.  
20 II of ch. 448 who is a health care provider for the defendant or who is responsible for  
21 providing health care services to inmates of the jail. The report shall not be otherwise  
22 disclosed ~~prior to~~ before the hearing under ~~this subsection~~ s. 975.34.

23 **SECTION 783.** 971.14 (4) (b) of the statutes is repealed.

24 **SECTION 784.** 971.14 (4) (c) of the statutes is repealed.

25 **SECTION 785.** 971.14 (4) (d) of the statutes is repealed.



**ASSEMBLY BILL 383**

1           **SECTION 786.** 971.14 (5) (title) of the statutes is repealed.

2           **SECTION 787.** 971.14 (5) (a) 1., 2. and 3. of the statutes are renumbered 975.34  
3 (7) (a), (b) and (c) and amended to read:

4           975.34 (7) (a) ~~If the court determines that the defendant is not competent but~~  
5 ~~is likely to become competent within the period specified in this paragraph if~~  
6 ~~provided with appropriate treatment sub. (6) (b) 3. applies,~~ the court shall suspend  
7 ~~the proceedings and~~ commit the defendant to the custody of the department for  
8 treatment for a period not to exceed 12 months, ~~or the maximum sentence specified~~  
9 ~~for the most serious offense with which the defendant is charged, whichever is less~~  
10 the maximum period of commitment, as defined in sub. (6) (a). The department shall  
11 determine whether the defendant will receive treatment in an appropriate  
12 institution designated by the department, while under the supervision of the  
13 department in a community-based treatment program under contract with the  
14 department, or in a jail or a locked unit of a facility that has entered into a voluntary  
15 agreement with the state to serve as a location for treatment. The sheriff shall  
16 transport the defendant to the institution, program, jail, or facility, as determined  
17 by the department.

18           (b) If, under ~~subd. 1. par. (a),~~ the department commences ~~services~~ treatment  
19 to a defendant in jail or in a locked unit, the department shall, as soon as possible,  
20 transfer the defendant to an institution or provide ~~services~~ treatment to the  
21 defendant in a community-based treatment program consistent with this  
22 subsection. The court shall order a defendant who is committed under this  
23 subsection to undergo periodic reexaminations as provided in s. 975.36.

24           (c) Days spent in commitment under this ~~paragraph~~ subsection are considered  
25 days spent in custody under s. 973.155. The court shall make and enter a specific

**ASSEMBLY BILL 383**

1 finding of the number of days spent in custody and include that finding in the  
2 commitment order.

3 **SECTION 788.** 971.14 (5) (a) 4. of the statutes is renumbered 975.34 (7) (d) and  
4 amended to read:

5 975.34 (7) (d) A defendant under the supervision of the department placed  
6 under this ~~paragraph~~ subsection in a community-based treatment program is in the  
7 custody and control of the department, subject to any conditions set by the  
8 department. If the department believes that the defendant under supervision has  
9 violated a condition, or that permitting the defendant to remain in the community  
10 jeopardizes the safety of the defendant or another person, the department may  
11 designate an institution at which the treatment shall occur and may request that the  
12 court reinstate the proceedings, order the defendant transported by the sheriff to the  
13 designated institution, and ~~suspend proceedings~~ commit the defendant to custody  
14 consistent with ~~subd. 1. par. (a).~~

15 **SECTION 789.** 971.14 (5) (am) of the statutes is renumbered 975.35 and  
16 amended to read:

17 **975.35 Post-commitment motion on capacity to refuse medication or**  
18 **treatment.** ~~If the a~~ defendant committed under s. 975.34 (7) is not subject to a court  
19 order ~~determining finding~~ the defendant to be not competent to refuse medication or  
20 treatment for the defendant's mental condition and if the department determines  
21 that the defendant should be subject to such a court order, the department may file  
22 a motion with the court, ~~with notice to the counsel for the defendant, the defendant,~~  
23 ~~and the district attorney, a motion for a hearing, under the standard specified in sub.~~  
24 ~~(3) (dm), on~~ to determine whether the defendant is not competent to refuse  
25 medication or treatment. ~~A report on which the motion is based shall accompany~~

**ASSEMBLY BILL 383**

1 ~~the motion and notice of motion and shall include a statement~~ The department shall  
2 submit with the motion a report that is based on an examination of the defendant by  
3 a licensed physician, that is signed by a licensed physician, and that asserts that the  
4 defendant needs medication or treatment and that the defendant is not competent  
5 to refuse medication or treatment, based on an examination of the defendant by a  
6 licensed physician. The department shall provide notice of any motion filed under  
7 this section, and a copy of the report submitted with the motion, to the defendant,  
8 the defendant's attorney, and the district attorney. Within 10 days after the  
9 department files a motion is filed under this paragraph section, the court shall, under  
10 the procedures and standards specified in sub. (4) (b), hold a hearing without a jury  
11 to determine whether the defendant's competency defendant is not competent to  
12 refuse medication or treatment for the defendant's mental condition. At the hearing,  
13 the department must prove by clear and convincing evidence that the defendant is  
14 not competent to refuse medication or treatment. At the request of the defendant,  
15 the defendant's counsel attorney, or the district attorney, the hearing may be  
16 postponed, but in no case may the postponed hearing be held more than 20 days after  
17 a motion is filed under this paragraph section.

18 **SECTION 790.** 971.14 (5) (b) of the statutes is renumbered 975.36 (1) and  
19 amended to read:

20 975.36 (1) REEXAMINATION TIME LIMITS. The defendant department shall be  
21 periodically reexamined by the department examiners. ~~Written reports of~~  
22 examination shall be furnished to the court reexamine a defendant who remains  
23 committed under s. 975.34 (7), and at 3 months after commitment, 6 months after  
24 commitment, and 9 months after commitment and within 30 days prior to before the  
25 expiration of the commitment. Each order shall submit a written report to the court

**ASSEMBLY BILL 383**

1 on the defendant's mental condition. In each report, the department shall indicate  
2 either that whether the defendant has become competent, that the defendant  
3 remains incompetent but that attainment of competency to proceed and, if the  
4 defendant has not become competent, whether the defendant is likely to become  
5 competent within the remaining commitment period, or that the defendant has not  
6 made such progress that attainment of competency is likely within the remaining  
7 commitment period. Any report indicating such a lack of sufficient progress shall  
8 include the examiner's opinion regarding whether the defendant is mentally ill,  
9 alcoholic, drug dependent, developmentally disabled or infirm because of aging or  
10 other like incapacities. If the defendant is not likely to become competent within the  
11 remaining commitment period, the department shall also report whether the  
12 defendant meets the criteria for commitment under ch. 51 or 55. The court shall  
13 schedule a date certain for the review of the reports. If the department indicates in  
14 the report that the defendant has become competent or that the defendant is not  
15 competent and is unlikely to become competent within the remaining commitment  
16 period, the court shall hold the review within 14 days after the court receives the  
17 report.

18 **SECTION 791.** 971.14 (5) (c) of the statutes is renumbered 975.36 (3) and  
19 amended to read:

20 975.36 (3) DETERMINING COMPETENCY. Upon receiving a report under ~~par. (b)~~  
21 ~~indicating the defendant has regained competency or is not competent and unlikely~~  
22 ~~to become competent in the remaining commitment period, the court shall hold a~~  
23 ~~hearing within 14 days of receipt of the report and sub. (1) or (2), the court shall~~  
24 ~~proceed under sub. (4) s. 975.34.~~ If the court determines that the defendant has  
25 become competent, the defendant shall be discharged from commitment and the

**ASSEMBLY BILL 383**

1 criminal proceeding shall be resumed. If the court determines that the defendant is  
2 making sufficient progress toward becoming competent, the commitment shall  
3 continue.

4 **SECTION 792.** 971.14 (5) (d) of the statutes is renumbered 975.36 (5) and  
5 amended to read:

6 **975.36 (5) MEDICATION TO MAINTAIN COMPETENCY.** If the defendant is receiving  
7 medication, the court may make appropriate orders for the continued administration  
8 of the medication in order to maintain the competence of the defendant for the  
9 duration of the proceedings.

10 **(6) SUBSEQUENT INCOMPETENCY.** If a defendant who has been restored to  
11 competency thereafter again becomes incompetent, the maximum commitment  
12 period under ~~par. (a) s. 975.34 (6)~~ shall be 18 months minus the days spent in previous  
13 commitments under ~~this subsection s. 975.34~~, or 12 months, whichever is less.

14 **SECTION 793.** 971.14 (6) (title) of the statutes is repealed.

15 **SECTION 794.** 971.14 (6) (a) of the statutes is repealed.

16 **SECTION 795.** 971.14 (6) (b) of the statutes is renumbered 975.38 (1) and  
17 amended to read:

18 **975.38 (1)** When the court finds under s. 975.34 (6) (b) 1. that a defendant is  
19 not likely to become competent, or discharges a defendant from commitment under  
20 ~~par. (a) s. 975.36 (4)~~, it may order that the defendant be taken immediately into  
21 custody by a law enforcement official and promptly delivered to a facility specified  
22 in s. 51.15 (2), an approved public treatment facility under s. 51.45 (2) (c), or an  
23 appropriate medical or protective placement facility. Thereafter, detention of the  
24 defendant shall be governed by s. 51.15, 51.45 (11), or 55.135, as appropriate. The  
25 district attorney or corporation counsel may prepare a statement ~~meeting~~ that

**ASSEMBLY BILL 383**

1 ~~satisfies~~ the requirements of s. 51.15 (4) or (5), 51.45 (13) (a), or 55.135 based on the  
2 allegations of the criminal complaint and the evidence in the case. ~~This statement~~  
3 ~~shall be given~~ If an attorney prepares such a statement, he or she shall provide a copy  
4 of the statement to the director of the facility to which the defendant is delivered and  
5 ~~filed~~ file the statement with the branch of ~~circuit~~ court assigned to exercise criminal  
6 jurisdiction in the county in which the criminal charges are pending, ~~where it shall.~~  
7 The filed statement shall suffice, without corroboration by other petitioners, as a  
8 petition for commitment under s. 51.20 or 51.45 (13) or a petition for protective  
9 placement under s. 55.075. ~~This section~~ subsection does not restrict the power of the  
10 branch of ~~circuit~~ court in which the ~~petition~~ statement is filed to transfer the matter  
11 to the branch of ~~circuit~~ court assigned to exercise jurisdiction under ch. 51 in the  
12 county. Days spent in commitment or protective placement pursuant to a petition  
13 under this ~~paragraph shall not be deemed~~ subsection do not count as days spent in  
14 custody under s. 973.155.

15 **SECTION 796.** 971.14 (6) (c) of the statutes is renumbered 975.38 (2) and  
16 amended to read:

17 975.38 (2) If a ~~person~~ defendant is committed under s. 51.20 pursuant to a  
18 petition under ~~par. (b)~~ sub. (1), the county department under s. 51.42 or 51.437 to  
19 whose care and custody the ~~person~~ defendant is committed shall notify the court  
20 ~~which that released the defendant under s. 975.34 (6) (b) 1. or discharged the person~~  
21 defendant under ~~par. (a)~~ s. 975.36 (4), the district attorney for the county in which  
22 that court is located, and the ~~person's~~ defendant's attorney of record in the ~~prior~~  
23 suspended criminal proceeding at least 14 days ~~prior to~~ before transferring or  
24 discharging the defendant from an inpatient treatment facility and at least 14 days  
25 ~~prior to~~ before the expiration of the order of commitment or any subsequent

**ASSEMBLY BILL 383**

1 consecutive order, unless the department or county department or the department  
2 of health services has applied for an extension of the order.

3 **SECTION 797.** 971.14 (6) (d) of the statutes is renumbered 975.38 (3) and  
4 amended to read:

5 975.38 (3) Counsel who ~~have received~~ receive notice under ~~par. (e) sub. (2) or~~  
6 who otherwise obtain information that a defendant released under s. 975.34 (6) (b)  
7 1. or discharged under par. (a) s. 975.36 (4) may have become competent to proceed  
8 in a criminal case may move the court to order that the defendant undergo a  
9 competency examination under ~~sub. (2) s. 975.32~~. If the court ~~so orders, a report shall~~  
10 ~~be filed under sub. (3) and a hearing held under sub. (4) orders an examination under~~  
11 s. 975.32, the examiner shall file a report under s. 975.33 and the court shall proceed  
12 under s. 975.34. If the court determines that the defendant is competent to proceed,  
13 the court shall resume the criminal proceeding ~~shall be resumed~~. If the court  
14 determines that the defendant is not competent to proceed, it shall release ~~him or her~~  
15 the defendant but may impose such reasonable nonmonetary conditions as ~~will on~~  
16 the defendant to protect the public and enable the court and district attorney to  
17 discover whether the ~~person~~ defendant subsequently becomes competent.

18 **SECTION 798.** 971.15 of the statutes is renumbered 975.50, and 975.50 (2), as  
19 renumbered, is amended to read:

20 975.50 (2) As used in this chapter, the ~~terms~~ term "mental disease or defect"  
21 ~~do~~ does not include an abnormality manifested only by repeated criminal or  
22 otherwise antisocial conduct.

23 **SECTION 799.** 971.16 (title) of the statutes is renumbered 975.51 (title).

24 **SECTION 800.** 971.16 (1) of the statutes is repealed.

**ASSEMBLY BILL 383**

1           **SECTION 801.** 971.16 (2) of the statutes is renumbered 975.51 (1) and amended  
2 to read:

3           975.51 (1) If ~~the a~~ defendant ~~has entered~~ enters a plea of not guilty by reason  
4 of mental disease or defect or there is other reason to believe that the defendant has  
5 a mental disease or defect of the defendant will otherwise that will become an issue  
6 in the case, the court may appoint at least one physician ~~or at least one~~ psychologist,  
7 ~~but~~ and not more than 3 physicians or psychologists or a combination thereof, to  
8 examine the defendant and to testify at the trial. If the court appoints a physician  
9 or psychologist under this section, the court shall inform the jury, if there is one, that  
10 the court appointed the physician or psychologist and shall permit both parties to  
11 cross-examine the physician or psychologist.

12           (2) (a) ~~The compensation of the physicians or psychologists shall be fixed by the~~  
13 ~~court and paid by~~ court shall set the fee for an examination conducted by a physician  
14 or psychologist appointed under sub. (1) and the county, upon the order of the court,  
15 shall pay the fee as part of the costs of the action. ~~The receipt by any~~

16           (b) ~~A physician or psychologist summoned under this section of any other~~  
17 ~~compensation than that so fixed by the court and paid by the county, or the offer or~~  
18 ~~promise by any person to pay such other compensation, is unlawful and~~ may not  
19 accept compensation other than the fee under par. (a), for conducting an examination  
20 under sub. (1) and no person may offer or promise to pay the physician or psychologist  
21 other compensation for the examination. Violation of this paragraph is punishable  
22 as contempt of court. The fact that the physician or psychologist has been appointed  
23 by the court shall be made known to the jury and the physician or psychologist shall  
24 be subject to cross-examination by both parties.



**ASSEMBLY BILL 383**

1           **SECTION 802.** 971.16 (3) (intro.) of the statutes is renumbered 975.51 (3) and  
2 amended to read:

3           975.51 (3) Not less than 10 days before trial, or at ~~any other time that the court~~  
4 ~~directs a different time if directed by the court~~, any physician or psychologist  
5 appointed under sub. (2) (1) shall file a written report of his or her examination of  
6 the defendant with the judge, ~~who court, and the court~~ shall cause copies of the report  
7 to be transmitted to the district attorney and to ~~counsel for the defendant~~. ~~The~~  
8 ~~contents of the report shall be confidential until the physician or psychologist has~~  
9 ~~testified or at the completion of the trial~~ the defendant's attorney. The report shall  
10 contain an the physician's or psychologist's opinion regarding the ability of the  
11 defendant to appreciate the wrongfulness of the defendant's conduct or to conform  
12 the defendant's conduct with the requirements of law at the time of the commission  
13 of the criminal offense charged and, if sufficient information is available to the  
14 physician or psychologist to reach an opinion, his or her opinion on whether the  
15 defendant needs medication or treatment and whether the defendant is not  
16 competent to refuse medication or treatment. ~~The defendant is not competent to~~  
17 ~~refuse medication or treatment if, because of mental illness, developmental~~  
18 ~~disability, alcoholism or drug dependence, and after the advantages and~~  
19 ~~disadvantages of and alternatives to accepting the particular medication or~~  
20 ~~treatment have been explained to the defendant, one of the following is true: contents~~  
21 of the report shall be confidential until the physician or psychologist has testified or  
22 until the completion of the trial.

23           **SECTION 803.** 971.16 (3) (a) of the statutes is repealed.

24           **SECTION 804.** 971.16 (3) (b) of the statutes is repealed.

**ASSEMBLY BILL 383**

1           **SECTION 805.** 971.16 (4) of the statutes is renumbered 975.51 (4) (a) and  
2 amended to read:

3           975.51 (4) (a) If the defendant wishes to be examined by a physician,  
4 psychologist, or other expert of his or her own choice, the examiner shall be permitted  
5 to have reasonable access to the defendant for the purposes of examination. ~~No~~  
6 ~~testimony~~ An examiner selected by the defendant may not testify at trial regarding  
7 the mental condition of the defendant shall ~~be received from a physician,~~  
8 ~~psychologist or expert witness summoned by the defendant unless not less than the~~  
9 examiner provides a report of his or her examination of the defendant to the district  
10 attorney at least 15 days before trial ~~a report of the examination has been~~  
11 ~~transmitted to the district attorney and unless the prosecution~~ state has been  
12 afforded an opportunity, if it requests one within a reasonable time before trial, to  
13 examine and observe the defendant ~~if the opportunity has been seasonably~~  
14 ~~demande~~. The state may summon a physician, psychologist or other expert to  
15 testify, but that witness shall not give testimony unless not less than 15 days before  
16 trial a written report of his or her examination of the defendant has been transmitted  
17 to counsel for the defendant.

18           **SECTION 806.** 971.16 (5) of the statutes is renumbered 975.51 (5) (a) and  
19 amended to read:

20           975.51 (5) (a) If Except as provided in par. (b), if a physician, psychologist, or  
21 other expert who has examined the defendant testifies ~~concerning~~ regarding the  
22 defendant's mental condition, he or she shall be permitted to make a statement as  
23 to the nature of his or her examination, his or her diagnosis of the mental condition  
24 of the defendant at the time of the commission of the offense charged, his or her  
25 opinion as to the ability of the defendant to appreciate the wrongfulness of the

**ASSEMBLY BILL 383**

1 defendant's conduct or to conform to the requirements of law and, if sufficient  
2 information is available to the physician, psychologist, or expert to reach an opinion,  
3 his or her opinion on whether the defendant needs medication or treatment and  
4 whether the defendant is not competent to refuse medication or treatment for the  
5 defendant's mental condition. ~~Testimony concerning the defendant's need for~~  
6 ~~medication or treatment and competence to refuse medication or treatment may not~~  
7 ~~be presented before the jury that is determining the ability of the defendant to~~  
8 ~~appreciate the wrongfulness of his or her conduct or to conform his or her conduct~~  
9 ~~with the requirements of law at the time of the commission of the criminal offense~~  
10 ~~charged. The physician, psychologist, or other expert shall be permitted to make an~~  
11 ~~explanation reasonably serving that reasonably serves to clarify his or her diagnosis~~  
12 ~~and opinion and may be cross-examined as to any matter bearing on his or her~~  
13 ~~competency or credibility or the validity of his or her diagnosis or opinion.~~

14 **SECTION 807.** 971.16 (6) of the statutes is renumbered 975.51 (6) and amended  
15 to read:

16 975.51 (6) Nothing in this section shall ~~require the attendance at the trial of~~  
17 ~~any~~ requires a physician, psychologist, or other expert witness to attend the trial for  
18 any purpose other than ~~the giving of~~ to give his or her testimony.

19 **SECTION 808.** 971.165 (title) of the statutes is renumbered 975.52 (title).

20 **SECTION 809.** 971.165 (1) of the statutes is renumbered 975.52 (2), and 975.52  
21 (2) (intro.) and (c) (intro.), 2. and 3., as renumbered, are amended to read:

22 975.52 (2) JOINED WITH A PLEA OF NOT GUILTY. (intro.) If a defendant ~~couples joins~~  
23 a plea of not guilty with a plea of not guilty by reason of mental disease or defect, all  
24 of the following apply:

**ASSEMBLY BILL 383**

1 (c) (intro.) If both pleas are tried to a jury, that jury shall be the same, except  
2 that all of the following apply:

3 2. If the jury is discharged prior to reaching a verdict on the 2nd plea, the  
4 defendant shall not solely on that account be entitled to a redetermination of the first  
5 plea and a different jury of 12 may be selected to determine the 2nd plea only.

6 3. If an appellate court reverses a judgment as to the 2nd plea but not as to the  
7 first plea and remands for further proceedings, or if the ~~trial~~ circuit court vacates the  
8 judgment as to the 2nd plea but not as to the first plea, the 2nd plea may be  
9 determined by a different jury selected for this purpose.

10 **SECTION 810.** 971.165 (2) of the statutes is renumbered 975.52 (3) and amended  
11 to read:

12 975.52 (3) INFORMING JURY OF EFFECT OF VERDICT. If the plea of not guilty by  
13 reason of mental disease or defect is tried to a jury, the court shall inform the jury  
14 that the effect of a verdict of not guilty by reason of mental disease or defect is that,  
15 in lieu of criminal sentence or probation, the defendant will be committed to the  
16 custody of the department of ~~health services~~ and will be placed in an appropriate  
17 institution unless the court determines that the defendant would not pose a danger  
18 to himself or herself or to others if released under conditions ordered by the court.  
19 ~~No~~ A verdict on the a plea of not guilty by reason of mental disease or defect ~~may be~~  
20 that is tried by a jury is not valid or and may not be received unless agreed to by at  
21 least five-sixths of the jurors.

22 **SECTION 811.** 971.165 (3) (a) of the statutes is renumbered 975.52 (4) (a) and  
23 amended to read:

**ASSEMBLY BILL 383**

1           975.52 (4) (a) If a defendant is not found not guilty by reason of mental disease  
2 or defect, the court shall enter grant a judgment of conviction and shall either impose  
3 or withhold sentence under s. ~~972.13 (2)~~ 972.28 (1).

4           **SECTION 812.** 971.165 (3) (b) of the statutes is renumbered 975.52 (4) (b) and  
5 amended to read:

6           975.52 (4) (b) If a defendant is found not guilty by reason of mental disease or  
7 defect, the court shall enter a judgment of not guilty by reason of mental disease or  
8 defect. ~~The court shall thereupon~~ and proceed under s. ~~971.17~~ 975.55. A judgment  
9 entered ~~under this paragraph is interlocutory to the commitment order entered~~  
10 ~~under s. 971.17 and reviewable upon appeal therefrom~~ 975.57 is the final order in  
11 the case and is appealable as a matter of right under s. 808.03 (1). Upon appeal of  
12 the commitment order, all properly preserved issues may be raised, including those  
13 relating to the guilt phase of the trial.

14           **SECTION 813.** 971.17 (title) of the statutes is renumbered 975.57 (title).

15           **SECTION 814.** 971.17 (1) of the statutes is renumbered 975.57 (2), and 975.57  
16 (2) (a) to (d), as renumbered, are amended to read:

17           975.57 (2) (a) *Felonies committed before July 30, 2002.* Except as provided in  
18 par. (c), when a defendant person is found not guilty by reason of mental disease or  
19 ~~mental~~ defect of a felony committed before July 30, 2002, the court shall commit the  
20 person to the department of health services for a specified period not exceeding  
21 two-thirds of the maximum term of imprisonment that could be imposed under s.  
22 973.15 (2) against an offender convicted of the same felony or felonies, including  
23 imprisonment authorized by any applicable penalty enhancement statutes, ~~subject~~  
24 ~~to the credit provisions of s. 973.155.~~

**ASSEMBLY BILL 383**

1           (b) *Felonies committed on or after July 30, 2002.* Except as provided in par. (c),  
2 when a defendant person is found not guilty by reason of mental disease or mental  
3 defect of a felony committed on or after July 30, 2002, the court shall commit the  
4 person to the department of health services for a specified period not exceeding the  
5 maximum term of confinement in prison, plus imprisonment authorized by any  
6 applicable penalty enhancement statutes, that could be imposed under ss. 973.01 (2)  
7 and 973.15 (2) (a) on an offender convicted of the same felony, ~~plus imprisonment~~  
8 ~~authorized by any applicable penalty enhancement statutes~~, subject to the credit  
9 ~~provisions of s. 973.155 or felonies.~~

10           (c) *Felonies punishable by life imprisonment.* If a defendant person is found not  
11 guilty by reason of mental disease or mental defect of a felony that is punishable by  
12 life imprisonment, the commitment period specified by the court may be life, subject  
13 to termination under sub. (5) s. 975.60.

14           (d) *Misdemeanors.* When a defendant person is found not guilty by reason of  
15 mental disease or mental defect of a misdemeanor, the court shall commit the person  
16 to the department of health services for a specified period not exceeding two-thirds  
17 of the maximum term of imprisonment that could be imposed under s. 973.15 (2)  
18 against an offender convicted of the same misdemeanor or misdemeanors, including  
19 imprisonment authorized by any applicable penalty enhancement statutes, ~~subject~~  
20 ~~to the credit provisions of s. 973.155.~~

21           **SECTION 815.** 971.17 (1g) of the statutes is renumbered 975.53 (1) and amended  
22 to read:

23           975.53 (1) NOTICE OF RESTRICTION ON FIREARM POSSESSION. If ~~the defendant~~  
24 ~~under sub. (1)~~ a person is found not guilty of a felony by reason of mental disease or

**ASSEMBLY BILL 383**

1 defect, the court shall inform the ~~defendant~~ person of the requirements and penalties  
2 under s. 941.29.

3 **SECTION 816.** 971.17 (1h) of the statutes is renumbered 975.53 (2) and amended  
4 to read:

5 975.53 (2) ~~NOTICE OF RESTRICTIONS ON POSSESSION~~ POSSESSION OF BODY ARMOR.  
6 If ~~the defendant under sub. (1)~~ a person is found not guilty of a violent felony, as  
7 defined in s. 941.291 (1) (b), by reason of mental disease or defect, the court shall  
8 inform the ~~defendant~~ person of the requirements and penalties under s. 941.291.

9 **SECTION 817.** 971.17 (1j) (title) of the statutes is repealed.

10 **SECTION 818.** 971.17 (1j) (a) of the statutes is renumbered 975.54 (1) (a).

11 **SECTION 819.** 971.17 (1j) (b) of the statutes is renumbered 975.54 (1) (b) and  
12 amended to read:

13 975.54 (1) (b) If a person is found not guilty by reason of mental disease or defect  
14 of a serious sex offense, the court may, in addition to committing the person to the  
15 department of health services under sub. (1) ~~s. 975.57~~, place the person on lifetime  
16 supervision under s. 939.615 if notice concerning lifetime supervision was given to  
17 the person under s. 973.125 and if the court determines that lifetime supervision of  
18 the person is necessary to protect the public.

19 **SECTION 820.** 971.17 (1m) (title) of the statutes is repealed.

20 **SECTION 821.** 971.17 (1m) (a) of the statutes is renumbered 975.54 (2) and  
21 amended to read:

22 975.54 (2) If ~~the defendant under sub. (1)~~ a person is found not guilty by reason  
23 of mental disease or defect for a felony or a violation of s. 165.765 (1), 940.225 (3m),  
24 944.20, or 948.10, the court shall require the person to provide a biological specimen  
25 to the state crime laboratories for deoxyribonucleic acid analysis.

**ASSEMBLY BILL 383**

1           **SECTION 822.** 971.17 (1m) (b) 1m. a. of the statutes is renumbered 975.54 (3)

2           (a) 1. and amended to read:

3           975.54 (3) (a) 1. Except as provided in ~~subd. 2m. par. (b)~~, if the defendant under  
4           ~~sub. (1)~~ a person is found not guilty by reason of mental disease or defect for any  
5           violation, or for the solicitation, conspiracy, or attempt to commit any violation, of ch.  
6           940, 944, or 948 or s. 942.08 or 942.09, or ss. 943.01 to 943.15, the court may require  
7           the defendant person to comply with the reporting requirements under s. 301.45 if  
8           the court determines that the underlying conduct was sexually motivated, as defined  
9           in s. 980.01 (5), and that it would be in the interest of public protection to have the  
10          defendant person report under s. 301.45.

11          **SECTION 823.** 971.17 (1m) (b) 1m. b. of the statutes is renumbered 975.54 (3)

12          (a) 2. and amended to read:

13          975.54 (3) (a) 2. If a court under ~~subd. 1m. a. 1.~~ orders a person to comply with  
14          the reporting requirements under s. 301.45 in connection with a finding of not guilty  
15          by reason of mental disease or defect for a violation, or the solicitation, conspiracy,  
16          or attempt to commit a violation, of s. 942.09 and the person was under the age of 21  
17          when he or she committed the offense, the court may provide that upon termination  
18          of the commitment order under ~~sub. (5)~~ s. 975.60 or expiration of the order under ~~sub.~~  
19          ~~(6)~~ s. 975.61 the person be released from the requirement to comply with the  
20          reporting requirements under s. 301.45.

21          **SECTION 824.** 971.17 (1m) (b) 2m. of the statutes is renumbered 975.54 (3) (b)

22          and amended to read:

23          975.54 (3) (b) If ~~the defendant under sub. (1)~~ a person is found not guilty by  
24          reason of mental disease or defect for a violation, or for the solicitation, conspiracy,  
25          or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02



**ASSEMBLY BILL 383**

1 (1) or (2), 948.025, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08,  
2 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, of s. 940.302 (2)  
3 if s. 940.302 (2) (a) 1. b. applies, or of s. 940.30 or 940.31 if the victim was a minor and  
4 the defendant person was not the victim's parent, the court shall require the  
5 defendant person to comply with the reporting requirements under s. 301.45 unless  
6 the court determines, after a hearing on a motion made by the defendant person, that  
7 the defendant person is not required to comply under s. 301.45 (1m).

8 **SECTION 825.** 971.17 (1m) (b) 3. of the statutes is renumbered 975.54 (3) (c), and  
9 975.54 (3) (c) (intro.), 1., 2. and 5., as renumbered, are amended to read:

10 975.54 (3) (c) (intro.) In determining under ~~subd. 1m. a. par. (a) 1.~~ whether it  
11 would be in the interest of public protection to have the defendant person report  
12 under s. 301.45, the court may consider any of the following:

13 1. The ages, at the time of the violation, of the defendant person and the victim  
14 of the violation.

15 2. The relationship between the defendant person and the victim of the  
16 violation.

17 5. The probability that the defendant person will commit other violations in the  
18 future.

19 **SECTION 826.** 971.17 (1m) (b) 4. of the statutes is renumbered 975.54 (3) (d) and  
20 amended to read:

21 975.54 (3) (d) If the court orders a defendant person to comply with the  
22 reporting requirements under s. 301.45, the court may order the defendant person  
23 to continue to comply with the reporting requirements until his or her death.

24 **SECTION 827.** 971.17 (1m) (b) 5. of the statutes is renumbered 975.54 (3) (e) and  
25 amended to read:

**ASSEMBLY BILL 383**

1           975.54 (3) (e) If the court orders a defendant person to comply with the  
2 reporting requirements under s. 301.45, the clerk of the court in which the order is  
3 entered shall promptly forward a copy of the order to the department of corrections.  
4 If the finding of not guilty by reason of mental disease or defect on which the order  
5 is based is reversed, set aside, or vacated, the clerk of the court shall promptly  
6 forward to the department of corrections a certificate stating that the finding has  
7 been reversed, set aside, or vacated.

8           **SECTION 828.** 971.17 (2) (title) of the statutes is repealed.

9           **SECTION 829.** 971.17 (2) (a) of the statutes is renumbered 975.55 and amended  
10 to read:

11           **975.55 Disposition of person found not guilty by reason of mental**  
12 **disease or defect.** ~~The court shall enter an initial commitment order under this~~  
13 ~~section pursuant to a hearing held as~~ As soon as practicable after the entering a  
14 judgment of finding a person not guilty by reason of mental disease or mental defect  
15 is entered, the court shall hold a dispositional hearing and commit the person to the  
16 department as provided in s. 975.57. If the court lacks sufficient information to make  
17 ~~the determination required by sub. (3) enter a commitment order under s. 975.57~~  
18 immediately after trial, it may adjourn the dispositional hearing, enter an interim  
19 order committing the person to the department, and order the department of health  
20 services to conduct a predisposition investigation using the procedure in under s.  
21 ~~972.15 973.004, or order a supplementary mental examination or both, to assist the~~  
22 court in framing the commitment order of the person. If the court enters an interim  
23 commitment order, the person is subject to any conditions set by the court and to the  
24 rules of the department.

**ASSEMBLY BILL 383**

1           **SECTION 830.** 971.17 (2) (b) of the statutes is renumbered 975.56 (1) and  
2 amended to read:

3           975.56 (1) If ~~a~~ the court orders a supplementary mental examination is  
4 ordered under ~~par. (a) s. 975.55~~, the court may appoint one or more examiners having  
5 the specialized knowledge determined by the court to be appropriate to ~~examine and~~  
6 ~~report upon the condition of the person.~~ In lieu thereof, conduct an outpatient  
7 examination of the person or the court may commit the person to an appropriate  
8 mental health facility for the period specified in ~~par. (e), which shall~~ an inpatient  
9 examination. Days spent in a mental health facility for an inpatient examination  
10 under this subsection count as days spent in custody under s. 973.155.

11           **SECTION 831.** 971.17 (2) (c) of the statutes is renumbered 975.56 (3) (a) and  
12 amended to read:

13           975.56 (3) (a) An examiner ordered to conduct an inpatient examination under  
14 this section shall complete an ~~inpatient~~ the examination under ~~par. (b)~~ and file the  
15 a report of the examination within 15 days after the examination is ordered unless,  
16 ~~for good cause,~~ If the examiner cannot complete the examination within 15 days and  
17 requests an extension. ~~In that case,~~ the court may for good cause allow one 15-day  
18 extension of the examination period.

19           **(b)** An examiner ordered to conduct an outpatient examination under this  
20 section shall complete an ~~outpatient~~ the examination and file the a report of the  
21 examination within ~~15~~ 30 days after the examination is ordered.

22           **SECTION 832.** 971.17 (2) (d) of the statutes is renumbered 975.56 (4) and  
23 amended to read:

24           975.56 (4) If the court orders an inpatient examination under ~~par. (b)~~ sub. (1),  
25 it shall arrange for the transportation of the person to the examining facility within

**ASSEMBLY BILL 383**

1 a reasonable time after the examination is ordered and for the person to be returned  
2 to the jail or court within a reasonable time after the examination has been  
3 completed.

4 **SECTION 833.** 971.17 (2) (e) of the statutes is renumbered 975.56 (2) and  
5 amended to read:

6 975.56 (2) The examiner ~~appointed under par. (b)~~ ordered to conduct an  
7 examination under this section shall personally observe and examine the person.  
8 The examiner ~~or facility~~ shall have access to the person's past or present treatment  
9 records, as defined in s. 51.30 (1) (b), and patient health care records, as provided  
10 under s. 146.82 (2) (c). If the examiner believes that the person is appropriate for  
11 conditional release, the examiner shall report on the type of treatment and services  
12 that the person may need while in the community on conditional release.

13 **SECTION 834.** 971.17 (2) (f) of the statutes is renumbered 975.56 (5) and  
14 amended to read:

15 975.56 (5) ~~The costs of an examination ordered under par. (a) shall be paid by~~  
16 ~~the county upon~~ Upon the order of the court ~~as part of the costs of the action, the~~  
17 county shall pay the costs of an examination ordered under this section.

18 **SECTION 835.** 971.17 (2) (g) of the statutes is renumbered 975.56 (6) and  
19 amended to read:

20 975.56 (6) Within 10 days after the examiner's report is filed under ~~par. (e)~~ sub.  
21 (3), the court shall hold a hearing to determine ~~whether~~ the terms of the commitment  
22 ~~shall take the form of institutional care or conditional release order under s. 975.57.~~

23 **SECTION 836.** 971.17 (3) (title) of the statutes is repealed.

24 **SECTION 837.** 971.17 (3) (a) of the statutes is renumbered 975.57 (1) and  
25 amended to read:

**ASSEMBLY BILL 383**

1           975.57 (1) COMMITMENT ORDER. An order for commitment under this section  
2 shall specify either institutional care or conditional release. The court shall order  
3 institutional care if it finds by clear and convincing evidence that ~~conditional release~~  
4 of the person, if conditionally released, would pose a significant risk of causing bodily  
5 harm to himself or herself or to others or of causing serious property damage. If the  
6 court does not make this finding, it shall order conditional release. In determining  
7 whether commitment shall be for institutional care or conditional release, the court  
8 may consider, without limitation because of enumeration, the nature and  
9 circumstances of the crime, the person's mental history and present mental  
10 condition, where the person will live, how the person will support himself or herself,  
11 what arrangements are available to ensure that the person has access to and will  
12 take necessary medication, and what arrangements are possible for treatment  
13 beyond medication.

14           **SECTION 838.** 971.17 (3) (b) of the statutes is renumbered 975.57 (5) (a) and  
15 amended to read:

16           975.57 (5) (a) If the state proves by clear and convincing evidence that the  
17 person is not competent to refuse medication or treatment ~~for the person's mental~~  
18 ~~condition, under the standard specified in s. 971.16 (3),~~ the court shall issue, as part  
19 of the commitment order, an order that the person is not competent to refuse  
20 medication or treatment ~~for the person's mental condition~~ and that whoever  
21 administers the medication or treatment to the person shall observe appropriate  
22 medical standards.

23           **SECTION 839.** 971.17 (3) (c) of the statutes is renumbered 975.57 (5) (b) and  
24 amended to read:

**ASSEMBLY BILL 383**

1           975.57 (5) (b) ~~If the court order specifies institutional care, the department of~~  
2 ~~health services shall place the person in an institution under s. 51.37 (3) that the~~  
3 ~~department considers appropriate in light of the rehabilitative services required by~~  
4 ~~the person and the protection of public safety. If the a person placed in an institution~~  
5 ~~under this section is not subject to a court order determining finding the person to~~  
6 ~~be not competent to refuse medication or treatment for the person's mental condition~~  
7 ~~and if the institution in which the person is placed department determines that the~~  
8 ~~person should be subject to such a court an order, the institution department may~~  
9 ~~file a motion with the court, with notice to the person and his or her counsel and the~~  
10 ~~district attorney, a motion as provided in s. 975.35 for a hearing, under the standard~~  
11 ~~specified in s. 971.16 (3), on to determine whether the person is not competent to~~  
12 ~~refuse medication or treatment. A report on which the motion is based shall~~  
13 ~~accompany the motion and notice of motion and shall include a statement signed by~~  
14 ~~a licensed physician that asserts that the person needs medication or treatment and~~  
15 ~~that the person is not competent to refuse medication or treatment, based on an~~  
16 ~~examination of the person by a licensed physician. Within 10 days after a motion is~~  
17 ~~filed under this paragraph, the court shall determine the person's competency to~~  
18 ~~refuse medication or treatment for the person's mental condition. At the request of~~  
19 ~~the person, his or her counsel attorney, or the district attorney, the hearing may be~~  
20 ~~postponed, but in no case may the postponed hearing shall be held more than within~~  
21 ~~20 days after a motion is filed under this paragraph. If the district attorney, the~~  
22 ~~person, and his or her counsel attorney waive their respective opportunities to~~  
23 ~~present other evidence on the issue, the court shall determine the person's~~  
24 ~~competency to refuse medication or treatment on the basis of the report~~  
25 ~~accompanying the motion. In the absence of these waivers, the court shall hold an~~

**ASSEMBLY BILL 383**

1 evidentiary hearing on the issue. If the state proves by ~~evidence that is clear and~~  
2 convincing evidence that the person is not competent to refuse medication or  
3 treatment, ~~under the standard specified in s. 971.16 (3), the court shall order find~~  
4 that the person is not competent to refuse medication or treatment ~~for the person's~~  
5 ~~mental condition and order~~ that whoever administers the medication or treatment  
6 to the person shall observe appropriate medical standards.

7 **SECTION 840.** 971.17 (3) (d) of the statutes is renumbered 975.57 (4) (a) and  
8 amended to read:

9 975.57 (4) (a) If the court finds that the person is appropriate for conditional  
10 release, ~~the court shall notify the department of health services. The department of~~  
11 ~~health services and the county department under s. 51.42 in the county of residence~~  
12 of the person shall prepare a plan that identifies the treatment and services, if any,  
13 that the person will receive in the community. The plan shall address the person's  
14 need, if any, for supervision, medication, community support services, residential  
15 services, vocational services, and alcohol or other drug abuse treatment. ~~The~~  
16 ~~department of health services may contract with a county department, under s. 51.42~~  
17 ~~(3) (aw) 1. d., with another public agency or with a private agency to provide the~~  
18 ~~treatment and services identified in the plan. The plan shall specify who will be~~  
19 responsible for providing the treatment and services identified in the plan. ~~The plan~~  
20 ~~department and the county department shall be presented~~ present the plan to the  
21 court for its approval within ~~21~~ 14 days after the court finding finds that the person  
22 is appropriate for conditional release, unless the department, county department,  
23 ~~department of health services and person to be released request additional time to~~  
24 develop the plan. ~~If the~~ The county department of the person's county of residence  
25 declines to prepare a plan, ~~the department of health services may arrange for~~

**ASSEMBLY BILL 383**

1 another county to prepare the plan if ~~that county agrees to prepare the plan and if~~  
2 the individual will be living in that another county.

3 **SECTION 841.** 971.17 (3) (e) of the statutes is renumbered 975.58 and amended  
4 to read:

5 **975.58 Petition for revocation of conditional release.** ~~An order for~~  
6 ~~conditional release places the person in the custody and control of the department~~  
7 ~~of health services. A conditionally released person is subject to the conditions set by~~  
8 ~~the court and to the rules of the department of health services. Before a person is~~  
9 ~~conditionally released by the court under this subsection, the court shall so notify the~~  
10 ~~municipal police department and county sheriff for the area where the person will~~  
11 ~~be residing. The notification requirement under this paragraph does not apply if a~~  
12 ~~municipal department or county sheriff submits to the court a written statement~~  
13 ~~waiving the right to be notified. If the department of health services alleges that a~~  
14 ~~released person conditionally released under s. 975.57 (4) or 975.59 has violated any~~  
15 ~~condition or rule of release, or that the safety of the person or others requires that~~  
16 ~~conditional release be revoked, he or she may be taken into custody under the rules~~  
17 ~~of revocation of release, the department may detain the person in a facility specified~~  
18 ~~in s. 51.15 (2) or in a jail. The department of health services shall submit a statement~~  
19 ~~showing probable cause of for the detention and a petition to revoke the order for~~  
20 ~~conditional release to the committing court and the regional office of the state public~~  
21 ~~defender responsible for handling cases in the county where the committing court is~~  
22 ~~located within 72 hours after the detention, excluding Saturdays, Sundays, and legal~~  
23 ~~holidays. The court shall hear the petition within 30 days, after detention unless the~~  
24 ~~hearing or time deadline is waived by the detained person. Pending the revocation~~  
25 ~~hearing, the department of health services may detain the person in a jail or in a~~



**ASSEMBLY BILL 383**

1 ~~hospital, center or facility specified by s. 51.15 (2). The~~ Before the hearing, the  
2 department shall provide the detained person written notice of the claimed violation  
3 and a summary of the evidence against the person. The department may withdraw  
4 the petition without the consent of the court. If the department withdraws the  
5 petition, the person shall be immediately released from detention. At a hearing  
6 under this section, the state has the burden of proving by clear and convincing  
7 evidence that ~~any~~ the person violated a rule or condition of release has been violated,  
8 or that the safety of the person or others requires ~~that conditional release be revoked~~  
9 revocation of release. If the court determines ~~after hearing that any~~ the person  
10 violated a rule or condition of release has been violated, or that the safety of the  
11 person or others requires ~~that conditional release be revoked~~ revocation of release,  
12 it may revoke the order for conditional release and order that the released person be  
13 placed in an appropriate institution under s. 51.37 (3) until the expiration of the  
14 commitment or until again conditionally released ~~under this section~~ s. 975.59. If the  
15 court determines that the person violated a rule or condition of release, it may modify  
16 the order for conditional release. The court shall set forth on the record the evidence  
17 relied upon and reasons for the revocation or modification of conditional release.

18 **SECTION 842.** 971.17 (4) (title) of the statutes is renumbered 975.59 (title).

19 **SECTION 843.** 971.17 (4) (a) of the statutes is renumbered 975.59 (1) and  
20 amended to read:

21 975.59 (1) PETITION. Any person who is committed ~~for institutional care to the~~  
22 department and institutionalized under s. 975.57 or 975.58 may petition the  
23 committing court to modify ~~its~~ the commitment order by authorizing conditional  
24 release if at least 6 months have elapsed since the initial commitment order was  
25 entered, the most recent ~~release petition~~ for conditional release, if any, was denied

**ASSEMBLY BILL 383**

1 or withdrawn, and the most recent order for conditional release, if any, was revoked.  
2 The director of the facility at which the person is placed may file a petition under this  
3 ~~paragraph~~ subsection on the person's behalf at any time.

4 **SECTION 844.** 971.17 (4) (b) of the statutes is renumbered 975.59 (2) and  
5 amended to read:

6 975.59 (2) SERVICE; APPOINTMENT OF COUNSEL. If the person files a timely  
7 petition under sub. (1) without counsel, the court shall serve a copy of the petition  
8 on the district attorney and, subject to ~~sub. (7) (b)~~ s. 975.63 (2), refer the matter to  
9 the state public defender for determination of indigency and appointment of counsel  
10 under s. 977.05 (4) (j). ~~If the a person petitions through counsel, his or her files a~~  
11 petition under sub. (1) with the assistance of an attorney, the person's attorney shall  
12 serve a copy of the petition on the district attorney.

13 **SECTION 845.** 971.17 (4) (c) of the statutes is renumbered 975.59 (3) and  
14 amended to read:

15 975.59 (3) EXAMINATION. Within 20 days after receipt of the petition under sub.  
16 (1), the court shall appoint one or more examiners having the specialized knowledge  
17 determined by the court to be appropriate, ~~who shall to~~ to examine the person and  
18 furnish a written report of the examination to the court within 30 days after  
19 appointment. The examiners shall have reasonable access to the person for purposes  
20 of examination and to the person's past and present treatment records, as defined in  
21 s. 51.30 (1) (b), and patient health care records, as provided under s. 146.82 (2) (c).  
22 ~~If any such an~~ an examiner believes that the person is appropriate for conditional  
23 release, the examiner shall report on the type of treatment and services that the  
24 person may need while in the community on conditional release.

**ASSEMBLY BILL 383**

1           **SECTION 846.** 971.17 (4) (d) of the statutes is renumbered 975.59 (4) and  
2 amended to read:

3           975.59 (4) HEARING. The court, ~~without a jury,~~ shall hear the petition within  
4 30 days after the report of the court-appointed examiner is filed with the court,  
5 unless the ~~petitioner~~ person waives this time limit. Expenses of proceedings under  
6 this subsection shall be paid as provided under s. 51.20 (18). The court shall grant  
7 the petition unless it finds by clear and convincing evidence that the person would  
8 pose a significant risk of causing bodily harm to himself or herself or to others or of  
9 causing serious property damage if conditionally released. In making this  
10 determination, the court may consider, ~~without limitation because of enumeration,~~  
11 ~~the nature and circumstances of the crime, the person's mental history and present~~  
12 ~~mental condition, where the person will live, how the person will support himself or~~  
13 ~~herself, what arrangements are available to ensure that the person has access to and~~  
14 ~~will take necessary medication, and what arrangements are possible for treatment~~  
15 ~~beyond medication~~ the factors under s. 975.57 (1).

16           **SECTION 847.** 971.17 (4) (e) of the statutes is renumbered 975.59 (5) (a), and  
17 975.59 (5) (a) 1., as renumbered, is amended to read:

18           975.59 (5) (a) 1. If the court finds that the person is appropriate for conditional  
19 release, the court shall notify the department of health services. ~~Subject and, subject~~  
20 ~~to subd. subds. 2. and 3., the department of health services and the county~~  
21 ~~department under s. 51.42 in the county of residence of the person shall prepare a~~  
22 ~~plan that identifies the treatment and services, if any, that the person will receive~~  
23 ~~in the community. The plan shall address the person's need, if any, for supervision,~~  
24 ~~medication, community support services, residential services, vocational services,~~  
25 ~~and alcohol or other drug abuse treatment. The department of health services may~~

**ASSEMBLY BILL 383**

1 ~~contract with a county department, under s. 51.42 (3) (aw) 1. d., with another public~~  
2 ~~agency or with a private agency to provide the treatment and services identified in~~  
3 ~~the plan.~~ The plan shall specify who will be responsible for providing the treatment  
4 and services identified in the plan. ~~The plan shall be presented~~ department and the  
5 county department shall present the plan to the court for its approval within ~~60~~ 14  
6 days after the court finding that the person is appropriate for conditional release,  
7 unless the department, county department, ~~department of health services~~ and  
8 person to be released request additional time to develop the plan.

9 **SECTION 848.** 971.17 (4m) of the statutes is repealed.

10 **SECTION 849.** 971.17 (5) (title) of the statutes is renumbered 975.60 (title).

11 **SECTION 850.** 971.17 (5) of the statutes is renumbered 975.60 (1) and amended  
12 to read:

13 975.60 (1) A person on conditional release, or the department of health services  
14 on his or her behalf, may petition the committing court to terminate ~~the~~ an order of  
15 commitment if at least 6 months have elapsed since the person was last placed on  
16 conditional release and since the most recent petition under this section, if any, was  
17 denied.

18 (2) If ~~the~~ a person files a timely petition under sub. (1) without counsel, the  
19 court shall serve a copy of the petition on the district attorney and, subject to ~~sub. (7)~~  
20 ~~(b)~~ s. 975.63 (2), refer the matter to the state public defender for determination of  
21 indigency and appointment of counsel under s. 977.05 (4) (j). If the person petitions  
22 ~~through counsel, his or her~~ files a petition under sub. (1) with the assistance of an  
23 attorney, the person's attorney shall serve a copy of the petition on the district  
24 attorney.

**ASSEMBLY BILL 383**

1           **(3)** ~~The court shall rule on the petition shall be determined as promptly as~~  
2           practicable by the court without a jury.

3           **(4)** The court shall terminate the order of commitment unless it finds by clear  
4           and convincing evidence that further supervision is necessary to prevent a  
5           significant risk of bodily harm to the person or to others or of serious property  
6           damage. In making this determination, the court may consider, without limitation  
7           because of enumeration, the nature and circumstances of the crime, the person's  
8           mental history and current mental condition, the person's behavior while on  
9           conditional release, and plans for the person's living arrangements, support,  
10          treatment, and other required services after termination of the commitment order.  
11          ~~A petition under this subsection may not be filed unless at least 6 months have~~  
12          ~~elapsed since the person was last placed on conditional release or since the most~~  
13          ~~recent petition under this subsection was denied.~~

14           **SECTION 851.** 971.17 (6) of the statutes is renumbered 975.61, and 975.61 (1)  
15          (intro.) and (2), as renumbered, are amended to read:

16           975.61 (1) (intro.) At least 60 days prior to the expiration of a commitment order  
17          issued under sub. (1) s. 975.57, the department of health services shall notify all of  
18          the following of the expiration of the order:

19           **(2)** Upon the expiration of a commitment order ~~under sub. (1)~~, the court shall  
20          discharge the person, subject to the right of the department of health services or the  
21          appropriate county department under s. 51.60 or 51.437 to proceed against the  
22          person under ch. 51 or 55. ~~If none of those departments proceeds against the person~~  
23          ~~under ch. 51 or 55, the court may order the proceeding.~~

24           **SECTION 852.** 971.17 (6m) (title) of the statutes is repealed.

**ASSEMBLY BILL 383**

1           **SECTION 853.** 971.17 (6m) (a) (intro.) of the statutes is renumbered 975.62 (1)  
2 (intro.) and amended to read:

3           975.62 (1) (intro.) In this subsection ~~section~~:

4           **SECTION 854.** 971.17 (6m) (a) 1. of the statutes is repealed.

5           **SECTION 855.** 971.17 (6m) (a) 2. of the statutes is renumbered 975.62 (1) (a).

6           **SECTION 856.** 971.17 (6m) (a) 3. of the statutes is renumbered 975.62 (1) (b).

7           **SECTION 857.** 971.17 (6m) (b) of the statutes is repealed.

8           **SECTION 858.** 971.17 (6m) (c) of the statutes is repealed.

9           **SECTION 859.** 971.17 (6m) (d) of the statutes is renumbered 975.62 (5) and  
10 amended to read:

11           975.62 (5) The department of health ~~services~~ shall design and prepare cards  
12 for ~~persons specified in par. (b) 1.~~ a victim's representative to send to the department.  
13 The cards shall have space for ~~these persons~~ a victim's representative to provide ~~their~~  
14 ~~names~~ his or her name and addresses address, the name of the ~~applicable defendant~~  
15 person committed under this subchapter, and any other information the department  
16 determines is necessary. The department shall provide the cards, without charge,  
17 to district attorneys. District attorneys shall provide the cards, without charge, to  
18 ~~persons specified in par. (b) 1.~~ victims' representatives. A victim's  
19 representative may send completed cards to the department. ~~All departmental~~  
20 ~~records or~~ Records and portions of records of the department that relate to mailing  
21 addresses of ~~these persons~~ a victim's representative are not subject to inspection or  
22 copying under s. 19.35 (1), except as needed to comply with a request under ~~sub. (4m)~~  
23 ~~(d)~~ or s. 301.46 (3) (d).

24           **SECTION 860.** 971.17 (7) (title) of the statutes is renumbered 975.63 (title).

**ASSEMBLY BILL 383**

1           **SECTION 861.** 971.17 (7) (a) of the statutes is renumbered 975.63 (1) and  
2 amended to read:

3           975.63 (1) The committing court shall conduct all hearings under ~~this section~~  
4 ss. 975.55 to 975.61. The committed person shall be given reasonable notice of the  
5 time and place of each ~~such~~ hearing. The court may designate additional persons to  
6 receive these notices.

7           **SECTION 862.** 971.17 (7) (b) of the statutes is renumbered 975.63 (2), and 975.63  
8 (2) (intro.), as renumbered, is amended to read:

9           975.63 (2) (intro.) Without limitation by enumeration, at any hearing under  
10 ~~this section ss. 975.55 to 975.61~~, the person subject of the hearing has the right to:

11           **SECTION 863.** 971.17 (7) (c) of the statutes is renumbered 975.63 (4) and  
12 amended to read:

13           975.63 (4) If ~~the~~ a person who is subject to proceedings under ss. 975.55 to  
14 975.61 wishes to be examined by a physician, ~~as defined in s. 971.16 (1) (a), or a~~  
15 ~~psychologist, as defined in s. 971.16 (1) (b), or other expert of his or her choice, the~~  
16 procedure under ~~s. 971.16~~ 975.51 (4) shall apply. Upon motion of an indigent  
17 person, the court shall appoint a qualified and available examiner for the person at  
18 public expense. Examiners for the person or the district attorney shall have  
19 reasonable access to the person for purposes of examination, and to the person's past  
20 and present treatment records, as defined in s. 51.30 (1) (b), and patient health care  
21 records, as provided under s. 146.82 (2) (c).

22           **SECTION 864.** 971.17 (7) (d) of the statutes is repealed.

23           **SECTION 865.** 971.17 (7m) of the statutes is renumbered 975.64.

24           **SECTION 866.** 971.17 (8) of the statutes is renumbered 975.49 and amended to  
25 read:

## ASSEMBLY BILL 383

1           **975.49 Applicability of ss. 975.57 to 975.64.** This section ~~subchapter~~  
2 governs the commitment, release, and discharge of persons adjudicated not guilty by  
3 reason of mental disease or mental defect for offenses committed on or after January  
4 1, 1991. The commitment, release, and discharge of persons adjudicated not guilty  
5 by reason of mental disease or mental defect for offenses committed prior to January  
6 1, 1991, shall be are governed by s. 971.17, 1987 stats., as affected by 1989 Wisconsin  
7 Act 31.

8           **SECTION 867.** 971.18 of the statutes is renumbered 975.21 and amended to  
9 read:

10           **975.21 Inadmissibility of statements made for purposes of**  
11 **examination.** A statement made by a person ~~subjected~~ who is subject to a  
12 psychiatric examination or to treatment pursuant to under this chapter that is made  
13 for the ~~purposes~~ purpose of such ~~the~~ examination or treatment shall is not be  
14 admissible in evidence against the person in any criminal proceeding on any issue  
15 other than that of the person's mental condition.

16           **SECTION 868.** 971.19 of the statutes is renumbered 970.14, and 970.14 (title),  
17 (1), (2), (3), (4), (5), (6), (8), (9) (intro.), (10), (11) and (12), as renumbered, are amended  
18 to read:

19           **970.14 ~~Place of trial~~ Venue.** (1) ~~Criminal actions~~ Trials shall be tried in the  
20 county where the crime was committed, except as ~~otherwise provided~~ in this section  
21 or in s. 971.09.

22           (2) Where ~~2 or more acts are requisite to the commission of any offense~~ crime  
23 requires 2 or more acts, the trial may be in any county in which any of such acts  
24 occurred. In a case involving a charge of conspiracy under s. 939.31, the trial may  
25 be in any county in which a conspiratorial act took place.



**ASSEMBLY BILL 383**

1           (3) Where an offense a crime is committed on or within one-fourth of a mile of  
2           the boundary of 2 or more counties, the ~~defendant may be tried~~ trial may be in any  
3           of such counties.

4           (4) If a crime is committed in, on, by use of, or against any vehicle passing  
5           through or within this state, and it cannot readily be determined in which county the  
6           crime was committed, the ~~defendant may be tried~~ trial may be in any county through  
7           ~~which such vehicle has passed or in the county where the defendant's travel~~  
8           ~~commenced or terminated~~ in which the vehicle has traveled.

9           (5) If the act causing death is in one county and the death ensues in another,  
10          the ~~defendant may be tried~~ trial may be in either county. If neither location can  
11          readily be determined, the ~~defendant may be tried~~ trial may be in the county where  
12          the body is found.

13          (6) If an offense is commenced outside the state and is consummated within  
14          the state, the ~~defendant may be tried~~ trial may be in the county where the offense  
15          was consummated.

16          (8) In an action for a violation of s. 948.31, the ~~defendant may be tried~~ trial may  
17          be in the county where the crime was committed or the county of lawful residence of  
18          the child.

19          (9) (intro.) In an action under s. 301.45 (6) (a) or (ag), the ~~defendant may be tried~~  
20          trial may be in the defendant's county of residence at the time that the complaint is  
21          filed. If the defendant does not have a county of residence in this state at the time  
22          that the complaint is filed, or if the defendant's county of residence is unknown at the  
23          time that the complaint is filed, ~~defendant may be tried~~ trial may be in any of the  
24          following counties:

**ASSEMBLY BILL 383**

1           (10) In an action under s. 30.547 for intentionally falsifying an application for  
2 a certificate of number, a registration or a certificate of title, the defendant may be  
3 ~~tried~~ trial may be in the defendant's county of residence at the time that the  
4 complaint is filed, in the county where the defendant purchased the boat if purchased  
5 from a dealer, or the county where the department of natural resources received the  
6 application.

7           (11) In an action under s. 943.201, the defendant may be ~~tried~~ trial may be in  
8 the county where the victim or intended victim resided at the time of the offense or  
9 in any other county designated under this section. In an action under s. 943.203, the  
10 ~~defendant may be tried~~ trial may be in the county where the victim or intended victim  
11 was located at the time of the offense or in any other county designated under this  
12 section.

13           (12) Except as provided in s. ~~971.223~~ 971.72, in an action for a violation of chs.  
14 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, or for a violation of any other law  
15 arising from or in relation to the official functions of the subject of the investigation  
16 or any matter that involves elections, ethics, or lobbying regulation under chs. 5 to  
17 12, subch. III of ch. 13, or subch. III of ch. 19 a defendant who is trial for a resident  
18 of this state shall be ~~tried~~ in circuit the court for the county where the defendant  
19 person resides. For purposes of this subsection, a person other than a natural person  
20 resides within a county if the person's principal place of operation is located within  
21 that county.

22           **SECTION 869.** 971.20 (title), (1), (2), (4), (5), (6), (7), (8), (9), (10) and (11) of the  
23 statutes are renumbered 967.16 (title), (1), (2), (3), (4), (5), (6), (7), (8), (9) and (10),  
24 and 967.16 (2), (3), (8) and (9), as renumbered, are amended to read:

**ASSEMBLY BILL 383**

1           967.16 (2) ONE SUBSTITUTION. In any criminal action, the defendant has a right  
2           to only one substitution of a judge, except under sub. ~~(7)~~ (6). The right of substitution  
3           shall be exercised as provided in this section.

4           (3) SUBSTITUTION OF TRIAL JUDGE ORIGINALLY ASSIGNED. A written request for the  
5           substitution of a different judge for the judge originally assigned to the trial of the  
6           action may be filed with the clerk before making any motions to the trial court and  
7           before arraignment entry of a plea.

8           (8) JUDGE'S AUTHORITY TO ACT. Upon the filing of a request for substitution in  
9           proper form and within the proper time, the judge whose substitution has been  
10          requested has no authority to act further in the action except to conduct the initial  
11          appearance, accept pleas, and set bail conditions of release.

12          (9) FORM OF REQUEST. A request for substitution of a judge may be made in the  
13          following form:

14          STATE OF WISCONSIN

15          CIRCUIT COURT

16          .... County

17          State of Wisconsin

18          vs.

19          ....(Defendant)

20          Pursuant to s. ~~971.20~~ 967.16 the defendant (or defendants) request (s) a  
21          substitution for the Hon. .... as judge in the above entitled action.

22          Dated ....., .... (year)

23          ....(Signature of defendant or defendant's attorney)

24          **SECTION 870.** 971.20 (3) of the statutes is repealed.

**ASSEMBLY BILL 383**

1           **SECTION 871.** 971.22 of the statutes is renumbered 971.70 and amended to  
2 read:

3           **971.70 Change of place of trial. (1)** The defendant may move for a to change  
4 of the place of trial on the ground that an impartial trial cannot be had in the county.  
5 ~~The motion shall be made at arraignment, but it may be made thereafter for cause.~~

6           **(2)** The motion shall be in writing and supported by an affidavit ~~which shall~~  
7 ~~state~~ stating evidentiary facts showing the nature of the prejudice alleged. The  
8 district attorney may file counter affidavits.

9           **(3)** If the court determines that ~~there exists~~ prejudice in the county where the  
10 action is pending ~~such prejudice that will prevent~~ a fair trial ~~cannot be had~~, it shall  
11 ~~order that~~ conduct the trial ~~be held~~ in any county where ~~an impartial~~ a fair trial can  
12 be had. ~~Only one change may be granted under this subsection. The judge who~~  
13 ~~orders the change in the place of trial shall preside at the trial. Preliminary matters~~  
14 ~~prior to trial may be conducted in either county at the discretion of the court. The~~  
15 ~~judge or, if the requirements under s. 971.71 (1) are satisfied, order the selection of~~  
16 a jury from another county under s. 971.71 (2). If the court conducts the trial in  
17 another county, it shall determine where the defendant, if he or she is in custody,  
18 shall be held and where the record shall be kept. ~~If the criteria under s. 971.225 (1)~~  
19 ~~(a) to (c) exist, the court may proceed under s. 971.225 (2)~~ The court, in its discretion,  
20 may conduct pretrial matters in either county.

21           **SECTION 872.** 971.223 of the statutes is renumbered 971.72, and 971.72 (3) and  
22 (4), as renumbered, are amended to read:

23           971.72 **(3)** This section does not affect which prosecutor has responsibility  
24 under s. 978.05 (1) to prosecute criminal actions arising from violations described  
25 under sub. (1).

**ASSEMBLY BILL 383**

1           (4) This section does not affect the application of s. ~~971.22~~ 971.70. In actions  
2       described under sub. (1), the court may enter an order under s. ~~971.225~~ 971.71 only  
3       if the order is agreed to by the defendant.

4           **SECTION 873.** 971.225 (title) of the statutes is renumbered 971.71 (title).

5           **SECTION 874.** 971.225 (1) (intro.), (a) and (c) of the statutes are renumbered  
6       971.71 (1) (intro.), (a) and (b), and 971.71 (1) (intro.) and (a), as renumbered, are  
7       amended to read:

8           971.71 (1) (intro.) ~~In lieu of~~ If there are grounds for changing the place of trial  
9       under s. ~~971.22 (3) or 971.223~~ 971.70 (3) or 971.72 and all of the following conditions  
10      are satisfied, the court may require the selection of a jury under sub. (2) if:

11          (a) The court has decided to sequester the jurors after the commencement of  
12      the trial, as provided in s. ~~972.12;~~ 972.05.

13          **SECTION 875.** 971.225 (1) (b) of the statutes is repealed.

14          **SECTION 876.** 971.225 (2) of the statutes is renumbered 971.71 (2) and amended  
15      to read:

16          971.71 (2) If the court decides to proceed under this section it shall follow the  
17      procedure under s. ~~971.22~~ 971.70 until the jury is chosen in the 2nd county. At that  
18      time, the proceedings shall return to the original county using the jurors selected in  
19      the 2nd county. The original county shall reimburse the 2nd county for all applicable  
20      costs under s. 814.22.

21          **SECTION 877.** 971.23 (title) of the statutes is repealed.

22          **SECTION 878.** 971.23 (1) (intro.) of the statutes is renumbered 971.43 (2) (intro.)  
23      and amended to read:

24          971.43 (2) ~~WHAT A DISTRICT ATTORNEY MUST DISCLOSE TO A DEFENDANT~~ MATERIAL  
25      TO BE DISCLOSED. (intro.) ~~Upon demand, the~~ The district attorney shall, ~~within a~~

**ASSEMBLY BILL 383**

1 reasonable time before trial, disclose to the defendant or his or her attorney defense  
2 the following material and information, not previously disclosed before or at the  
3 initial appearance, and permit the defendant or his or her attorney to inspect and  
4 copy or photograph all of the following materials and information, if it is within the  
5 possession, custody or control of the state inspection, copying, testing, and  
6 photographing of disclosed documents or tangible objects:

7 **SECTION 879.** 971.23 (1) (a) of the statutes is renumbered 971.43 (2) (a) and  
8 amended to read:

9 971.43 (2) (a) Any written or recorded statement concerning the alleged crime  
10 made by the defendant, including the testimony of the defendant ~~in a secret~~  
11 ~~proceeding under s. 968.26~~ at an inquest or before a grand jury, and the names of  
12 witnesses to the defendant's written statements.

13 **SECTION 880.** 971.23 (1) (b) of the statutes is renumbered 971.43 (2) (c) and  
14 amended to read:

15 971.43 (2) (c) A written summary of all oral statements of the defendant ~~which~~  
16 that the district attorney plans to use ~~in the course of the~~ at trial and the names of  
17 witnesses to the defendant's oral statements.

18 **SECTION 881.** 971.23 (1) (bm) of the statutes is renumbered 971.43 (2) (d) and  
19 amended to read:

20 971.43 (2) (d) Evidence obtained in the manner described under s. ~~968.31~~  
21 968.345 (2) (b), if the district attorney intends to use the evidence at trial.

22 **SECTION 882.** 971.23 (1) (c) of the statutes is renumbered 971.43 (2) (g).

23 **SECTION 883.** 971.23 (1) (d) of the statutes is renumbered 971.45 and amended  
24 to read:

**ASSEMBLY BILL 383**

1           **971.45 Witness lists.** ~~A~~ Upon demand by the other party, a party shall  
2 provide a list of all witnesses and their addresses whom the district attorney he or  
3 she intends to call at the trial. The list shall include each witness's name and address  
4 and shall be provided not less than 10 days before trial or at another time set by the  
5 court. This paragraph section does not apply to rebuttal witnesses or those witnesses  
6 called for impeachment only.

7           **SECTION 884.** 971.23 (1) (e) of the statutes is renumbered 971.46 (2) and  
8 amended to read:

9           971.46 (2) ~~Any relevant written or recorded statements of a witness named on~~  
10 ~~a list under par. (d), including any audiovisual recording of an oral statement of a~~  
11 ~~child under s. 908.08, Furnish any reports or statements of experts made in~~  
12 ~~connection with the case or, if an expert does not prepare a report or statement, a~~  
13 ~~written summary of the expert's findings or the subject matter of his or her testimony,~~  
14 ~~and the results of any physical or mental examination, scientific test, experiment,~~  
15 ~~or comparison that the district attorney party intends to offer in evidence at trial.~~

16           **SECTION 885.** 971.23 (1) (f) of the statutes is renumbered 971.43 (2) (i) and  
17 amended to read:

18           971.43 (2) (i) ~~The criminal record of a prosecution witness which is, and if~~  
19 ~~known to the district attorney, any pending charges against, any person whom the~~  
20 ~~district attorney intends to call as a trial witness.~~

21           **SECTION 886.** 971.23 (1) (g) of the statutes is renumbered 971.43 (2) (j) and  
22 amended to read:

23           971.43 (2) (j) ~~Any physical evidence that the district attorney intends to offer~~  
24 ~~in evidence at the trial.~~

25           **SECTION 887.** 971.23 (1) (h) of the statutes is renumbered 971.43 (2) (k).

**ASSEMBLY BILL 383**

1           **SECTION 888.** 971.23 (2m) (intro.) of the statutes is renumbered 971.44 (2)  
2 (intro.) and amended to read:

3           971.44 (2) ~~WHAT A DEFENDANT MUST DISCLOSE TO THE DISTRICT ATTORNEY~~ MATERIAL  
4 TO BE DISCLOSED. (intro.) ~~Upon demand, the defendant or his or her attorney~~ The  
5 defense shall, within a reasonable time before trial, disclose to the district attorney  
6 and permit the district attorney to inspect and copy or photograph all of the following  
7 materials material and information, if it is within the possession, custody or control  
8 of the defendant and permit inspection, copying, testing, and photographing of  
9 disclosed documents or tangible objects:

10           **SECTION 889.** 971.23 (2m) (a) of the statutes is repealed.

11           **SECTION 890.** 971.23 (2m) (am) of the statutes is repealed.

12           **SECTION 891.** 971.23 (2m) (b) of the statutes is renumbered 971.44 (2) (b) and  
13 amended to read:

14           971.44 (2) (b) ~~The~~ If known to the defense, the criminal record of -a- any person  
15 whom the defense intends to call as a trial witness, other than the defendant, which  
16 is known to the defense attorney.

17           **SECTION 892.** 971.23 (2m) (c) of the statutes is renumbered 971.44 (2) (c) and  
18 amended to read:

19           971.44 (2) (c) Any physical evidence that the ~~defendant~~ defense intends to offer  
20 in evidence at the trial.

21           **SECTION 893.** 971.23 (3) of the statutes is renumbered 971.54 and amended to  
22 read:

23           **971.54 Comment or instruction on failure to call witness** Failure to use  
24 disclosed material at trial. ~~No comment or instruction~~ The fact that a party has  
25 indicated during the discovery process an intention to offer specified evidence or to



**ASSEMBLY BILL 383**

1 call a specified witness is not admissible in evidence at a hearing or trial. If a party  
2 fails to offer such evidence or call such a witness, neither the court nor any other  
3 party or witness may make any statement regarding the that failure to call a witness  
4 at the trial shall be made or given if the sole basis for such comment or instruction  
5 the statement is the fact that the evidence or name of the witness appears upon a list  
6 furnished pursuant to this section was disclosed under this subchapter.

7 **SECTION 894.** 971.23 (5) of the statutes is renumbered 971.48 (1) and amended  
8 to read:

9 971.48 (1) ~~SCIENTIFIC TESTING.~~ On Upon motion of a by either party subject to  
10 s. 971.31 (5), the court may order the production of any item of physical evidence  
11 which that is intended to be introduced at the trial for scientific analysis under such  
12 terms and conditions as the court prescribes.

13 **SECTION 895.** 971.23 (5c) (title) of the statutes is repealed.

14 **SECTION 896.** 971.23 (5c) of the statutes is renumbered 971.58 (1).

15 **SECTION 897.** 971.23 (6) (title) of the statutes is renumbered 971.52 (title) and  
16 amended to read:

17 **971.52 (title) Protective order orders, other special procedures.**

18 **SECTION 898.** 971.23 (6) of the statutes is renumbered 971.52 (1) and amended  
19 to read:

20 971.52 (1) Upon motion of a party, the court may at any time order that  
21 discovery, inspection or the listing of witnesses required under this section  
22 subchapter be denied, restricted, or deferred, or make other appropriate orders.

23 **(2)** If the district attorney or defense counsel certifies that ~~to list~~ listing a  
24 witness under s. 971.45 may subject the witness or others to physical or economic  
25 harm or coercion, the court may order that the deposition of the witness be taken

**ASSEMBLY BILL 383**

1 pursuant to s. ~~967.04 (2) to (6)~~ 967.21. The name of the witness need not be divulged  
2 prior to the taking of such deposition. If the witness becomes unavailable or changes  
3 his or her testimony, the deposition shall be admissible at trial as substantive  
4 evidence.

5 **SECTION 899.** 971.23 (6c) (title) of the statutes is repealed.

6 **SECTION 900.** 971.23 (6c) of the statutes is renumbered 971.58 (2) and amended  
7 to read:

8 971.58 (2) Except as provided in s. ~~967.04~~ 967.21, the defendant or his or her  
9 attorney may not compel a victim of a crime to submit to a pretrial interview or  
10 deposition.

11 **SECTION 901.** 971.23 (6m) of the statutes is renumbered 971.53 and amended  
12 to read:

13 **971.53 In camera proceedings.** ~~Either~~ Upon motion of a party, the court may  
14 ~~move for~~ conduct an in camera inspection by the court of any document required to  
15 be disclosed under sub. (1) or (2m) for the purpose of masking or deleting any  
16 material which is not relevant to the case being tried. ~~The court shall mask or delete~~  
17 ~~any irrelevant material~~ s. 971.035, 971.43, or 971.44. Any in camera proceeding shall  
18 be reported and the court shall enter any order necessary to preserve the  
19 confidentiality of the record. The original or a copy of any material that is not  
20 disclosed shall be sealed and preserved as part of the record.

21 **SECTION 902.** 971.23 (7) of the statutes is renumbered 971.50 and amended to  
22 read:

23 **971.50 Continuing duty to disclose.** ~~If, subsequent to compliance~~ after  
24 complying with a requirement of this section ~~chapter~~, and ~~prior to~~ before or during  
25 trial, a party discovers additional material or the names of additional witnesses

**ASSEMBLY BILL 383**

1 requested ~~which~~ that are subject to discovery, inspection, or production under this  
2 section subchapter, the party shall promptly notify the other party of the existence  
3 of the additional material or names.

4 **SECTION 903.** 971.23 (7m) (a) of the statutes is renumbered 971.55 and  
5 amended to read:

6 **971.55 Remedies for noncompliance.** The court shall exclude any witness  
7 not listed, any expert as to whom the requirements of s. 971.46 were not met, or  
8 evidence not presented for inspection, testing, or copying required by this section  
9 subchapter, unless good cause is shown for failure to comply. ~~The court may in In~~  
10 appropriate cases, the court may grant the opposing party a recess or a continuance.

11 **SECTION 904.** 971.23 (7m) (b) of the statutes is repealed.

12 **SECTION 905.** 971.23 (8) (title) of the statutes is renumbered 971.44 (4) (title).

13 **SECTION 906.** 971.23 (8) (a) of the statutes is renumbered 971.44 (4) and  
14 amended to read:

15 971.44 (4) If the defendant defense intends to rely upon an alibi as a defense,  
16 ~~the defendant shall give notice to~~ call witnesses other than the defendant to support  
17 a defense of alibi, the defense shall notify the district attorney ~~at the arraignment~~  
18 ~~or of that intent~~ at least 30 days before trial, stating particularly the place where the  
19 defendant claims to have been when the crime is alleged to have been committed  
20 ~~together with~~ and the names and addresses of witnesses to the alibi, if known. ~~If at~~  
21 ~~the close of the state's case the defendant withdraws the alibi or if at the close of the~~  
22 ~~defendant's case the defendant does not call some or any of the alibi witnesses, the~~  
23 ~~state shall not comment on the defendant's withdrawal or on the failure to call some~~  
24 ~~or any of the alibi witnesses. The state shall not call any alibi witnesses not called~~  
25 ~~by the defendant for the purpose of impeaching the defendant's credibility with~~

**ASSEMBLY BILL 383**

1 regard to the alibi notice. Nothing in this section may prohibit the state from calling  
2 said alibi witnesses for any other purpose whom the defense intends to call at trial.

3 **SECTION 907.** 971.23 (8) (b) of the statutes is repealed.

4 **SECTION 908.** 971.23 (8) (c) of the statutes is repealed.

5 **SECTION 909.** 971.23 (8) (d) of the statutes is renumbered 971.43 (5) and  
6 amended to read:

7 971.43 (5) ALIBI REBUTTAL. ~~Within 20 days after receipt of the~~ If the defendant  
8 has provided notice of an alibi, ~~or such other time as the court orders~~ defense under  
9 s. 971.44 (4), the district attorney shall furnish the defendant notice in writing of,  
10 within 20 days after receipt of such notice unless otherwise provided in the  
11 scheduling order, disclose the names and addresses, if known, of any witnesses whom  
12 the state proposes to offer in rebuttal to discredit the defendant's alibi. ~~In default of~~  
13 ~~such notice, no rebuttal evidence on the alibi issue shall be received unless the court,~~  
14 ~~for cause, orders otherwise~~ district attorney intends to call in rebuttal to discredit the  
15 defendant's alibi.

16 **SECTION 910.** 971.23 (8) (e) of the statutes is repealed.

17 **SECTION 911.** 971.23 (9) of the statutes is renumbered 971.47 and amended to  
18 read:

19 **971.47 Deoxyribonucleic acid evidence. (1)** In this ~~subsection~~ section,  
20 "deoxyribonucleic acid profile" has the meaning given in s. 939.74 (2d) (a).

21 **(2)** Notwithstanding sub. (1) (e) or (2m) (am), if either s. 971.46, a party who  
22 intends to ~~submit~~ offer deoxyribonucleic acid profile evidence at a trial to prove or  
23 disprove the identity of a person, ~~the party seeking to introduce the evidence shall~~  
24 notify the other party of the intent to introduce the evidence in writing by mail at  
25 least 45 days before the date set for trial; ~~and shall provide the other party of his or~~

**ASSEMBLY BILL 383**

1 her intent to offer the evidence and, within 15 days of after receiving a request, the  
2 from the other party, shall provide him or her the information and material identified  
3 under sub. (1) (e) or (2m) (am), whichever is appropriate, described in s. 971.46 that  
4 relates to the evidence.

5 (3) The court shall exclude deoxyribonucleic acid profile evidence at trial, if the  
6 notice and production deadlines under ~~par. (b)~~ sub. (2) are not met, except the court  
7 may waive the 45 day notice requirement or may extend the 15 day production  
8 requirement upon stipulation of the parties, or for good cause, if the court finds that  
9 no party will be prejudiced by the waiver or extension. ~~The court may in In~~  
10 appropriate cases the court may grant the opposing party a recess or continuance.

11 **SECTION 912.** 971.23 (10) (title) of the statutes is repealed.

12 **SECTION 913.** 971.23 (10) of the statutes is renumbered 971.51 (2).

13 **SECTION 914.** 971.23 (11) of the statutes is renumbered 971.515, and 971.515  
14 (1) (intro.) and (a), (3) (a) and (b) and (4), as renumbered, are amended to read:

15 971.515 (1) (intro.) In this subsection section:

16 (a) "Defense" means the defendant, his or her attorney, and any individual  
17 retained by the defendant or his or her attorney for the purpose of providing  
18 testimony if the testimony is expert testimony that relates to an item or material  
19 included under ~~par. (b)~~ sub. (2).

20 (3) (a) Notwithstanding ~~sub. (1) (e) and (g)~~ s. 971.43 (2) (j), a court shall deny  
21 any request by the defense to provide, and a district attorney or law enforcement  
22 agency may not provide to the defense, any item or material required in ~~par. (b)~~ sub.  
23 (2) to remain in the possession, custody, and control of a law enforcement agency or  
24 court, except that a court may order that a copy of an item or material included under  
25 ~~par. (b)~~ sub. (2) be provided to the defense if that court finds that a copy of the item

**ASSEMBLY BILL 383**

1 or material has not been made reasonably available to the defense. The defense shall  
2 have the burden to establish that the item or material has not been made reasonably  
3 available.

4 (b) If a court orders under ~~subd. 1. par. (a)~~ a copy of an item or material included  
5 under ~~par. (b) sub. (2)~~ to be provided to the defense, the court shall enter a protective  
6 order under ~~sub. (6) s. 971.52 (1)~~ that includes an order that the copy provided to the  
7 defense may not be copied, printed, or disseminated by the defense and shall be  
8 returned to the court or law enforcement agency, whichever is appropriate, at the  
9 completion of the trial.

10 (4) Any item or material that is required under ~~par. (b) sub. (2)~~ to remain in  
11 possession, custody, and control of a law enforcement agency or court is not subject  
12 to the right of inspection or copying under s. 19.35 (1).

13 **SECTION 915.** 971.26 of the statutes is renumbered 970.11.

14 **SECTION 916.** 971.27 of the statutes is renumbered 970.12 and amended to  
15 read:

16 **970.12 Lost information, or destroyed complaint or indictment.** ~~In the~~  
17 ~~case of the loss or destruction of an information or complaint~~ If a complaint is lost or  
18 destroyed, the district attorney may file a copy, and ~~the prosecution shall proceed~~  
19 ~~without delay from that cause.~~ ~~In the case of the loss or destruction of an indictment,~~  
20 ~~an information may be filed~~ which shall have the same effect as the original.

21 **SECTION 917.** 971.29 (title) of the statutes is renumbered 970.09 (title) and  
22 amended to read:

23 **970.09 (title) Amending the charge complaint.**

24 **SECTION 918.** 971.29 (1) of the statutes is renumbered 970.09 (1) and amended  
25 to read:

**ASSEMBLY BILL 383**

1           970.09 (1) ~~A complaint or information may be amended at any time prior to~~  
2           arraignment At any time before the defendant enters a plea, the district attorney  
3           may amend the complaint without leave of the court.

4           **SECTION 919.** 971.29 (2) of the statutes is renumbered 970.09 (3) and amended  
5           to read:

6           970.09 (3) ~~At the trial, the~~ The court may allow amendment of the district  
7           attorney to amend the complaint, indictment or information at trial to conform to the  
8           proof where such amendment is not prejudicial to the defendant.

9           **(4)** After verdict the ~~pleading~~ complaint shall be deemed amended as to  
10          technical variances to conform to the proof if no objection to the relevance of the  
11          evidence was timely raised upon the trial.

12          **SECTION 920.** 971.29 (3) of the statutes is repealed.

13          **SECTION 921.** 971.30 (title) and (1) of the statutes are repealed.

14          **SECTION 922.** 971.30 (2) (intro.), (a), (b) and (c) of the statutes are consolidated,  
15          renumbered 971.65 (1) and amended to read:

16          971.65 (1) GENERALLY. Any motion that is capable of determination before trial  
17          may be made before trial. Unless otherwise provided or ordered by the court, all  
18          motions the motion shall meet the following criteria: ~~(a) Be~~ be in writing. ~~(b) Contain~~  
19          and contain a caption setting forth the name of the court, the venue, the title of the  
20          action, the file number, and a denomination of the party seeking the order or relief  
21          and a brief description of the type of order or relief sought. ~~(c) State.~~ The motion  
22          shall state with particularity the grounds for the motion and the order or relief  
23          sought.

24          **SECTION 923.** 971.31 (title) of the statutes is repealed.

25          **SECTION 924.** 971.31 (1) of the statutes is repealed.

**ASSEMBLY BILL 383**

1           **SECTION 925.** 971.31 (2) of the statutes is renumbered 971.65 (3) and amended  
2 to read:

3           971.65 (3) PARTICULAR ISSUES TO BE RAISED. ~~Except as provided in sub. (5),~~  
4 defenses Defenses and objections based on defects in the institution of the  
5 proceedings, insufficiency of the complaint, ~~information~~ or indictment, invalidity in  
6 whole or in part of the statute on which the prosecution is founded based, or the use  
7 of illegal means to secure evidence shall be raised before trial by a motion or be  
8 deemed waived. The court may, however, entertain such a motion at the trial, in  
9 which case the defendant waives any jeopardy that may have attached. ~~The motion~~  
10 ~~to suppress evidence shall be so entertained with waiver of jeopardy when it appears~~  
11 ~~that the defendant is surprised by the state's possession of such evidence.~~

12           **SECTION 926.** 971.31 (3) of the statutes is renumbered 972.18 (2) and amended  
13 to read:

14           972.18 (2) The admissibility of any statement of the defendant shall be  
15 determined at the trial by the court in an evidentiary hearing out of the presence of  
16 the jury, unless the defendant, ~~by motion, challenges the~~ court ruled on admissibility  
17 of such the statement before trial.

18           **SECTION 927.** 971.31 (4) of the statutes is renumbered 971.65 (4) and amended  
19 to read:

20           971.65 (4) DECIDING MOTIONS BEFORE AND AT TRIAL. ~~Except as provided in sub.~~  
21 ~~(3), a motion shall be determined before trial of the general issue~~ Before trial, the  
22 court shall determine each motion made under this section unless the court orders  
23 that it be deferred for determination at the trial. All issues of fact arising out of such  
24 the motion shall be ~~tried~~ determined by the court without a jury.

25           **SECTION 928.** 971.31 (5) of the statutes is repealed.



**ASSEMBLY BILL 383**

1           **SECTION 929.** 971.31 (6) of the statutes is renumbered 971.65 (5) and amended  
2 to read:

3           971.65 (5) CUSTODY AFTER DISMISSAL. If the court grants a motion to dismiss  
4 based upon a defect in the indictment, information commencement of the prosecution  
5 or in the complaint, or in the institution of the proceedings, it may, upon a showing  
6 that probable cause exists to believe that the defendant has committed a crime, order  
7 that the defendant be held in custody or that the defendant's bail be continued for  
8 not more than 72 48 hours pending issuance of a new summons or warrant or that  
9 the conditions of release be continued for a specified time pending the filing of a new  
10 indictment, information or complaint.

11           **SECTION 930.** 971.31 (7) of the statutes is repealed.

12           **SECTION 931.** 971.31 (8) of the statutes is repealed.

13           **SECTION 932.** 971.31 (9) of the statutes is renumbered 967.15 and amended to  
14 read:

15           **967.15 Service upon defendant.** A pleading, notice, motion, or other  
16 document required to be served on a defendant may be served upon the defendant's  
17 attorney of record.

18           **SECTION 933.** 971.31 (10) of the statutes is renumbered 971.085 (1) (a) and  
19 amended to read:

20           971.085 (1) (a) An order denying a motion to suppress evidence or a motion  
21 challenging the admissibility of a statement of a defendant may be reviewed upon  
22 appeal from a final judgment or order notwithstanding the fact that the judgment  
23 or order was entered upon a plea of guilty or no contest to the information or criminal  
24 complaint.

**ASSEMBLY BILL 383**

1           **SECTION 934.** 971.31 (11) of the statutes is renumbered 971.65 (6) and amended  
2 to read:

3           971.65 (6) PRIOR SEXUAL CONDUCT EVIDENCE. In actions under s. 940.225, 948.02,  
4 948.025, 948.05, 948.051, 948.06, 948.085, or 948.095, or under s. 940.302 (2), if the  
5 court finds that the crime was sexually motivated, as defined in s. 980.01 (5),  
6 evidence ~~which~~ that is admissible under s. ~~972.11 (2)~~ 904.045 must be determined  
7 by the court upon pretrial motion to be material to a fact at issue in the case and of  
8 sufficient probative value to outweigh its inflammatory and prejudicial nature  
9 before it may be introduced at trial.

10           **SECTION 935.** 971.31 (12) of the statutes is renumbered 971.65 (7) and amended  
11 to read:

12           971.65 (7) EVIDENCE OF PERSONAL OR MEDICAL HISTORY. In actions under s.  
13 940.22, the court may determine the admissibility of evidence under s. ~~972.11~~ 940.22  
14 (6) only upon a pretrial motion.

15           **SECTION 936.** 971.31 (13) of the statutes is renumbered 971.77, and 971.77 (2),  
16 as renumbered, is amended to read:

17           971.77 (2) The court shall retain jurisdiction unless the juvenile proves by a  
18 preponderance of the evidence that he or she did not commit the violation under the  
19 circumstances described in s. 938.183 (1) (b) or (c), whichever is applicable, or that  
20 transfer would be appropriate because all of the factors specified in ~~par. (a) 1., 2. and~~  
21 ~~3.~~ sub. (1) (a), (b), and (c) are met.

22           **SECTION 937.** 971.315 of the statutes is renumbered 970.10 (2) and amended  
23 to read:



**ASSEMBLY BILL 383**

## DISCOVERY

**SECTION 945.** 971.42 of the statutes is created to read:

**971.42 Purposes.** Discovery under this subchapter and s. 971.035 is intended, consistent with the constitutional rights of the defendant, to do all of the following:

(1) Promote fair and expeditious disposition of criminal charges, whether by deferred or suspended prosecution, plea, or trial.

(2) Provide the defendant with sufficient information to make an informed plea.

(3) Permit thorough preparation for and minimize surprise at trial.

(4) Reduce interruptions and complications during trial and avoid unnecessary and repetitious trials by identifying and resolving any procedural, collateral, or constitutional issues before trial.

(5) Minimize inequities among similarly situated defendants.

(6) Effect economies in time, money, judicial resources, and professional skills by minimizing paperwork, avoiding repetitious assertion of issues, and reducing the number of separate hearings.

(7) Minimize the burden upon victims and witnesses.

**SECTION 946.** 971.43 (title) and (1) of the statutes are created to read:

**971.43 (title) Disclosure by district attorney. (1) TIME OF DISCLOSURE.** Except as provided in subs. (5) and (8), the district attorney shall make all disclosures under this section within a reasonable time before the pretrial conference or at a time set in the scheduling order.

**SECTION 947.** 971.43 (2) (b) of the statutes is created to read:

971.43 (2) (b) Any written or recorded statement concerning the alleged crime made by a codefendant, including the testimony of the codefendant at an inquest, in

**ASSEMBLY BILL 383**

1 a John Doe proceeding under s. 968.105, or before a grand jury, and the names of  
2 witnesses to the codefendant's written statements.

3 **SECTION 948.** 971.43 (2) (br) of the statutes is created to read:

4 971.43 (2) (br) Any record or testimony taken from a John Doe proceeding  
5 under s. 968.105 that the district attorney intends to use at trial and the names of  
6 witnesses to the defendant's written statements.

7 **SECTION 949.** 971.43 (2) (e) of the statutes is created to read:

8 971.43 (2) (e) Any written or recorded statement of a person whom the district  
9 attorney intends to call as a trial witness that concerns the subject matter of the  
10 witness's intended testimony, that has been electronically recorded or reduced to  
11 writing and signed or otherwise approved or adopted by the witness, and that is  
12 within the possession or control of the state.

13 **SECTION 950.** 971.43 (2) (f) of the statutes is created to read:

14 971.43 (2) (f) Any audiovisual recording of an oral statement of a child under  
15 s. 908.08.

16 **SECTION 951.** 971.43 (2) (h) of the statutes is created to read:

17 971.43 (2) (h) After the defendant has obtained or waived legal representation,  
18 copies of all law enforcement investigative reports relating to the case.

19 **SECTION 952.** 971.43 (3) of the statutes is created to read:

20 971.43 (3) CHARACTER, REPUTATION, OR OTHER ACTS EVIDENCE. If the district  
21 attorney intends to use evidence of character or reputation or evidence of other  
22 crimes or acts under s. 904.04 (2), he or she shall notify the defense of that intention  
23 and of the substance of the evidence to be used.

24 **SECTION 953.** 971.43 (4) of the statutes is created to read:

**ASSEMBLY BILL 383**

1           971.43 (4) ELECTRONIC SURVEILLANCE. If the defendant's conversations or  
2 premises have been subjected to electronic surveillance, including wiretapping, in  
3 connection with the investigation or prosecution of the case, the district attorney  
4 shall inform the defense of that fact.

5           **SECTION 954.** 971.43 (6) of the statutes is created to read:

6           971.43 (6) MATERIAL POSSESSED BY INVESTIGATIVE PERSONNEL. The district  
7 attorney shall make reasonable efforts to ensure that investigative personnel  
8 provide material and information relevant to the crime charged to the district  
9 attorney's office.

10          **SECTION 955.** 971.43 (7) of the statutes is created to read:

11          971.43 (7) MATERIAL POSSESSED BY OTHER AGENCIES. If the district attorney  
12 knows that material and information that would be discoverable if in his or her  
13 possession is in the possession or control of a government agency not reporting  
14 directly to the district attorney, the district attorney shall disclose the fact of the  
15 existence of such material or information to the defense.

16          **SECTION 956.** 971.43 (8) of the statutes is created to read:

17          971.43 (8) NOTICE OF INTENT TO USE CODEFENDANT'S STATEMENT. If the district  
18 attorney intends to use the statement of a codefendant to implicate the defendant in  
19 the crime charged, he or she shall inform the defendant before trial.

20          **SECTION 957.** 971.44 (title) and (1) of the statutes are created to read:

21          **971.44 (title) Defense disclosure. (1) TIME OF DISCLOSURE.** The defense shall  
22 make all disclosures under this section within a reasonable time before the pretrial  
23 conference or at a time set in the scheduling order.

24          **SECTION 958.** 971.44 (2) (a) of the statutes is created to read:

**ASSEMBLY BILL 383**

1           971.44 (2) (a) Any written or recorded statement of a person whom the defense  
2 intends to call as a trial witness that concerns the subject matter of the witness's  
3 intended testimony, that has been electronically recorded or reduced to writing and  
4 signed or otherwise approved or adopted by the witness, and that is within the  
5 possession or control of the defense.

6           **SECTION 959.** 971.44 (3) of the statutes is created to read:

7           971.44 (3) CHARACTER, REPUTATION, OR OTHER ACTS EVIDENCE. If the defense  
8 intends to use evidence of character or reputation or evidence of other crimes or acts  
9 under s. 904.04 (2) not relating to the defendant, the defense shall notify the district  
10 attorney of that intention and of the substance of the evidence to be used.

11           **SECTION 960.** 971.46 (intro.) and (1) of the statutes are created to read:

12           **971.46 Expert witnesses.** (intro.) Any party who intends to call an expert  
13 witness at trial shall, not less than 15 days before the trial or at another time set by  
14 the court, do all of the following:

15           (1) Notify the other party in writing of the expert witness's name, address, and  
16 qualifications.

17           **SECTION 961.** 971.48 (title) of the statutes is created to read:

18           **971.48 (title) Scientific testing; preservation of evidence.**

19           **SECTION 962.** 971.48 (2) of the statutes is created to read:

20           971.48 (2) If before trial either party intends to destroy or permanently  
21 transfer out of its possession any material discoverable under this subchapter, the  
22 party shall give the other party advance notice sufficient to afford that party an  
23 opportunity to object or take other appropriate action.

24           **SECTION 963.** 971.49 of the statutes is created to read:

**ASSEMBLY BILL 383**

1           **971.49 Motion to obtain evidence before trial. (1)** Notwithstanding s.  
2 908.03 (6m) (c), before trial and upon motion by either party, the court may issue a  
3 subpoena to require the production of documents and other tangible objects if it finds  
4 that the evidence sought may be material to the determination of issues in the case.

5           **(2)** A motion and subpoena under sub. (1) shall specify who shall produce the  
6 material, whether certified copies of documents may be submitted in lieu of  
7 appearance, and other conditions under which the evidence shall be produced.

8           **(3)** Any party, or any person subpoenaed under this section, may move to quash  
9 the subpoena if the movant under sub. (1) has not shown grounds for the subpoena  
10 or if compliance would subject the person subpoenaed to an undue burden, require  
11 the disclosure of information that is privileged or otherwise protected from  
12 disclosure, or otherwise be unreasonable.

13           **SECTION 964.** 971.51 (title) and (1) of the statutes are created to read:

14           **971.51 (title) Manner of performing disclosure. (1)** Disclosure may be  
15 accomplished in any manner mutually agreeable to the parties. Absent agreement,  
16 the party having the duty to disclose shall do one of the following:

17           (a) Provide a copy of the material to be disclosed.

18           (b) Notify the other party that the material may be inspected, copied, or  
19 photographed during specified reasonable times and make the material available to  
20 the other party at the time specified. The party having the duty to disclose shall,  
21 unless it provides copies, make available suitable machinery for making copies.

22           **SECTION 965.** 971.52 (3) of the statutes is created to read:

23           971.52 **(3)** If anything is deleted from discoverable material under a claim of  
24 privilege or other exemption, the party to whom the discovery is made shall be  
25 notified and may move the court for an order requiring its disclosure. The court may



**ASSEMBLY BILL 383**

1 require the deleted information to be furnished to the court under seal for  
2 determination of its discoverability. If the court determines that the material is  
3 exempt from disclosure, an appropriate sealed copy of the material shall be kept in  
4 the court record.

5 **SECTION 966.** 971.56 of the statutes is created to read:

6 **971.56 Obtaining nontestimonial information from defendant. (1) IN**  
7 **GENERAL.** Upon motion by the district attorney, the court may order a defendant  
8 charged with a crime to participate in a procedure to obtain nontestimonial evidence  
9 relevant to whether the defendant committed the crime if the procedure is  
10 reasonable and does not involve an unreasonable intrusion into the body or an  
11 unreasonable detention of the defendant. An order under this subsection may direct  
12 the defendant to do any of the following:

13 (a) Appear, move, or speak for identification in a lineup or, if a lineup is not  
14 practicable, through some other reasonable procedure.

15 (b) Try on clothing and other articles.

16 (c) Provide handwriting and voice exemplars.

17 (d) Permit the taking of his or her photograph.

18 (e) Permit the taking of fingerprints, palm prints, footprints, and other body  
19 impression.

20 (f) Permit the taking of samples of blood, urine, saliva, semen, skin, breath,  
21 hair, or nails or materials under the nails.

22 (g) Submit to body measurements and other reasonable body surface  
23 examinations.

24 (h) Submit to reasonable physical and medical inspection, including X-rays,  
25 of the body.

**ASSEMBLY BILL 383**

1 (i) Participate in other procedures that comply with the requirements of sub.  
2 (1) (intro.).

3 **(2) CONTENTS OF ORDER.** An order under this section shall specify with  
4 particularity the authorized procedure; the scope of the defendant's participation in  
5 the procedure; the time, duration, and place of the procedure and other conditions  
6 under which it is to be conducted; and who may conduct the procedure. It may also  
7 direct the defendant not to alter substantially any identifying physical  
8 characteristics to be examined or destroy any evidence sought. The order shall  
9 specify that the defendant may not be subjected to investigative interrogation while  
10 participating in or present for the procedure and that the defendant may be held in  
11 contempt of court if he or she fails to appear and participate in the procedure as  
12 directed.

13 **(3) SERVICE.** The order shall be served by mailing or delivering a copy to the  
14 defendant's counsel and by delivering a copy of the order to the defendant personally.

15 **(4) IMPLEMENTATION.** (a) Counsel may accompany the defendant at a procedure  
16 ordered under this section, but the court may bar other individuals from attending.

17 (b) If the procedure involves an intrusion into the body, it shall be conducted  
18 by a qualified health care professional. Upon timely request by the defendant and  
19 approval by the court, a qualified health care professional designated by the  
20 defendant may observe any procedure involving intrusion of the body.

21 (c) The defendant may not be subjected to investigative interrogation at the  
22 procedure. No statement of the defendant made at the procedure is admissible  
23 against the defendant if made in the absence of the defendant's counsel.

24 **SECTION 967.** 971.57 of the statutes is created to read:



**ASSEMBLY BILL 383**

## MOTIONS

**SECTION 970.** 971.65 (title) of the statutes is created to read:

**971.65 (title) Pretrial motions.**

**SECTION 971.** 971.65 (2) of the statutes is created to read:

971.65 (2) TIME FOR FILING. A motion under this section shall be filed within the time set in the scheduling order. If there is no scheduling order, the motion shall be filed not later than 15 days before trial, unless otherwise permitted by the court.

**SECTION 972.** 971.66 of the statutes is created to read:

**971.66 Motions to dismiss asserting that a statute is unconstitutional.**

If a defendant moves to dismiss a criminal prosecution by asserting that the statute under which he or she is charged violates the United States or Wisconsin Constitution, the defendant must serve a copy of the motion on the attorney general under s. 806.04 (11) as well as on the district attorney.

**SECTION 973.** 971.68 (title), (1) and (3) of the statutes are created to read:

**971.68 (title) Joinder and severance motions. (1) IN GENERAL.** Either party may move for joinder or relief from misjoinder or prejudicial joinder under s. 970.13.

**(3) CODEFENDANT'S STATEMENTS.** If a defendant moves for severance because a codefendant's out-of-court statement refers to, but is not admissible against, the movant, the court shall determine whether the state intends to offer the statement in evidence as part of its case in chief. If so, the court shall require the district attorney to elect one of the following:

(a) A joint trial at which the statement is not received in evidence.

(b) A joint trial at which the statement is received in evidence only after all references to the movant have been deleted, if admission of the statement with the deletions made will not prejudice the movant.

**ASSEMBLY BILL 383**

1 (c) A separate trial for the movant.

2 (d) With the approval of the court, a separate jury for each defendant sitting  
3 in a single trial.

4 **SECTION 974.** 971.69 of the statutes is created to read:

5 **971.69 Pretrial dismissal of complaint. (1)** A defendant may move for  
6 pretrial dismissal of the complaint or of any count in the complaint. The defendant  
7 may provide one or more affidavits in support of the motion. The motion shall state  
8 with particularity the grounds upon which it is based and shall specify all of the  
9 following:

10 (a) The elements of the crime charged or other facts the state is required to  
11 prove at trial that the defendant believes the state cannot prove because there is no  
12 genuine issue as to any material fact.

13 (b) The evidence or absence of evidence, including any statement of a witness,  
14 that the defendant believes is uncontroverted and that establishes the grounds  
15 stated in the motion.

16 (c) If applicable, any crime included within the crime charged, as provided in  
17 s. 939.66, that the defendant also believes, for the grounds specified, the state cannot  
18 prove at trial because there is no genuine issue as to any material fact.

19 **(2)** If the grounds stated in the motion, if true, would not justify granting the  
20 dismissal motion, or if the allegations in the complaint demonstrate that there is a  
21 genuine issue of material fact as to those grounds, the court shall deny the motion.

22 **(3)** If the grounds stated in the motion, if true, would justify granting the  
23 dismissal motion and the allegations in the complaint do not demonstrate that there  
24 is a genuine issue of material fact as to those grounds, the court shall allow the  
25 district attorney to file a written response presenting any facts or expert opinions

**ASSEMBLY BILL 383**

1 that the district attorney believes establish the elements or other facts that the state  
2 is required to prove at trial. The court may request that the district attorney and  
3 defense counsel present arguments and may allow testimony where it would resolve  
4 the questions whether a genuine issue of material fact exists.

5 (4) Unless the court denies the motion under sub. (2), the court shall rule on  
6 the motion based on the complaint, the material submitted by the defendant in  
7 support of the motion, and material, testimony, or argument presented under sub.  
8 (3). The court shall rule on the motion as to the crime charged and any included crime  
9 specified in the motion. If the court concludes, for the reasons specified in the motion,  
10 that there is no genuine issue as to any material fact, the court shall do one of the  
11 following:

12 (a) Grant the motion.

13 (b) Allow the district attorney to amend the complaint.

14 (5) A complaint or charge dismissed under this section may not be reissued  
15 unless the district attorney has or discovers additional evidence supporting the  
16 complaint or charge.

17 (6) The defendant shall raise all grounds that can be raised under this section  
18 in a single motion, unless good cause is shown.

19 **SECTION 975.** Subchapter VI (title) of chapter 971 [precedes 971.75] of the  
20 statutes is created to read:

**CHAPTER 971****SUBCHAPTER VI****JUVENILES IN ADULT COURT**

21  
22  
23  
24 **SECTION 976.** 971.75 (title) of the statutes is created to read:

**ASSEMBLY BILL 383**

1           **971.75 (title) Probable cause and retention hearings; juvenile under**  
2           **original adult court jurisdiction.**

3           **SECTION 977.** 971.75 (2) of the statutes is created to read:

4           **971.75 (2) TIME FOR PROBABLE CAUSE HEARING.** The court shall conduct a  
5           probable cause hearing that is required under sub. (1) within 10 days after the initial  
6           appearance. On stipulation of the parties, or upon motion and for cause, the court  
7           may extend that time.

8           **SECTION 978.** 971.75 (4) of the statutes is created to read:

9           **971.75 (4) TIME FOR RETENTION HEARING.** The court shall conduct any hearing  
10           on retention of jurisdiction that is required under sub. (3) (b) within 20 days of the  
11           probable cause finding under sub. (3) (b). On stipulation of the parties, or upon  
12           motion and for cause, the court may extend that time.

13           **SECTION 979.** 971.75 (6) (title) and (a) of the statutes are created to read:

14           **971.75 (6) (title) WITNESSES AT PROBABLE CAUSE AND RETENTION HEARINGS.** (a)  
15           Both the district attorney and the juvenile may call and cross-examine witnesses at  
16           any hearing under this section. All witnesses shall be sworn and their testimony  
17           reported by a court reporter.

18           **SECTION 980.** 971.75 (7) (title) of the statutes is created to read:

19           **971.75 (7) (title) ADMISSIBILITY OF REPORTS.**

20           **SECTION 981.** 971.75 (9) (title) of the statutes is created to read:

21           **971.75 (9) (title) CLOSURE ORDERS.**

22           **SECTION 982.** 971.76 of the statutes is created to read:

23           **971.76 Pretrial dismissal of complaint against juvenile. (1) WAIVER**  
24           **CASES.** If the court has jurisdiction over a juvenile as a result of a waiver under s.  
25           938.18 (1) (a) or (b), the juvenile may move the court to dismiss the complaint on the

**ASSEMBLY BILL 383**

1 ground that the state cannot prove that he or she committed any of the offenses listed  
2 in s. 938.18 (1) (a) or (b) on which the waiver was based. The motion shall comply  
3 with the requirements of s. 971.69 (1) and the court shall review the motion under  
4 the procedures set forth in s. 971.69 (2) to (4). If the court grants a motion to dismiss  
5 under this subsection, the court shall order that the juvenile be discharged, but  
6 proceedings may be brought regarding the juvenile under ch. 938.

7 **(2) CASES INVOLVING ORIGINAL ADULT COURT JURISDICTION.** A juvenile subject to  
8 the court's original jurisdiction under s. 938.183 (1) may move the court to dismiss  
9 the complaint on the ground that the state cannot prove that he or she committed any  
10 of the offenses charged under s. 938.183 (1) (a), (am), (b), or (c) under the  
11 circumstances described in those provisions. The motion shall comply with the  
12 requirements of s. 971.69 (1), and the court shall review the motion under the  
13 procedures set forth in s. 971.69 (2) to (4). If the court grants a motion to dismiss  
14 under this subsection, the court shall order that the juvenile be discharged, but  
15 proceedings may be brought regarding the juvenile under ch. 938.

16 **SECTION 983.** 971.77 (title) of the statutes is created to read:

17 **971.77 (title) Motion to transfer jurisdiction in misdemeanors.**

18 **SECTION 984.** 972.005 (title) of the statutes is created to read:

19 **972.005 (title) Right to jury; waiver.**

20 **SECTION 985.** 972.005 (2) of the statutes is created to read:

21 972.005 **(2) PARTIAL JURY TRIAL WAIVER.** The parties may agree, with the  
22 approval of the court, that the jury be instructed that an element of the crime is  
23 established. The court shall address the defendant personally to assure that the  
24 defendant understands his or her right to trial by jury as to that element and  
25 voluntarily waives that right.



**ASSEMBLY BILL 383**

1           **SECTION 986.** 972.01 of the statutes is amended to read:

2           **972.01 Jury; civil rules applicable.** The Except as otherwise provided in  
3 this chapter, the summoning of jurors, the, selection, and qualifications of the jury  
4 jurors, the challenge of jurors for cause, and the duty of the court in charging the jury  
5 and, giving instructions, and discharging the jury when it is unable to agree shall be  
6 the same in criminal as in civil actions, except that s. 805.08 (3) shall not apply.

7           **SECTION 987.** 972.02 (title) of the statutes is repealed.

8           **SECTION 988.** 972.02 (1) of the statutes is renumbered 972.005 (1) and amended  
9 to read:

10           972.005 (1) WAIVER. ~~Except as otherwise provided in this chapter, criminal~~  
11 Criminal cases shall be tried by a jury selected as prescribed in s. 805.08, unless the  
12 defendant waives ~~a his or her right to trial by jury in writing or by statement in open~~  
13 court or under s. 967.08 (2) (b), on the record, with the approval of the court and the  
14 consent of the state. Before approving a waiver of the right to trial by jury, the court  
15 shall address the defendant personally to assure that the defendant understands his  
16 or her right to trial by jury and that the defendant voluntarily waives that right.

17           **SECTION 989.** 972.02 (2) of the statutes is renumbered 972.025 (2) and amended  
18 to read:

19           972.025 (2) JURY OF LESS THAN 12. At any time before the verdict is returned in  
20 a felony criminal case, the parties may stipulate ~~in writing or by statement in open~~  
21 court, on the record agree, with the approval of the court, that the jury shall consist  
22 of ~~any number less than 12 persons.~~ If the case is a misdemeanor case, the jury shall  
23 consist of 6 persons parties agree to a jury of less than 12, the court shall address the  
24 defendant personally to assure that the defendant understands his or her right to a  
25 jury of 12 and that the defendant voluntarily waives that right.

## ASSEMBLY BILL 383

1           **SECTION 990.** 972.02 (3) of the statutes is renumbered 972.27 and amended to  
2 read:

3           **972.27 Findings in a trial to the court.** In a case tried without a jury, the  
4 court shall make a general finding and may in addition find the facts specially. If the  
5 charge includes a provision that increases the maximum penalty for the charged  
6 crime, the court shall make a specific finding as to the proof of that provision.

7           **SECTION 991.** 972.02 (4) of the statutes is renumbered 972.04 (5) and amended  
8 to read:

9           972.04 (5) ~~No~~ A member of the a grand jury which found the indictment shall  
10 that indicted a defendant may not be a juror for the defendant's trial of the  
11 indictment.

12           **SECTION 992.** 972.025 (title) and (1) of the statutes are created to read:

13           **972.025 (title) Jury size. (1) TWELVE-PERSON JURY.** A jury in a criminal case  
14 shall consists of 12 persons unless the parties agree to a lesser number as provided  
15 in sub. (2).

16           **SECTION 993.** 972.03 (title) of the statutes is amended to read:

17           **972.03 (title) Peremptory Number of peremptory challenges.**

18           **SECTION 994.** 972.03 of the statutes is renumbered 972.03 (1) and amended to  
19 read:

20           972.03 (1) GENERALLY. ~~Each~~ Except as provided in subs. (2), (3), (4), and (5), in  
21 a criminal case, each side is entitled to only 4 peremptory challenges ~~except as~~  
22 ~~otherwise provided in this section. When,~~

23           **(4) LIFE IMPRISONMENT.** If the crime charged in a case is punishable by life  
24 imprisonment, the state is each side shall be entitled to 6 peremptory challenges and  
25 the defendant is entitled to 6 peremptory challenges. If there is, except, if the case

**ASSEMBLY BILL 383**

1 involves 2 defendants, the defense shall be entitled to 12 peremptory challenges, and  
2 if the case involves more than 2 defendants, the defense shall be entitled to 18  
3 peremptory challenges.

4 (3) DIVIDING CHALLENGES AMONG DEFENDANTS. In a criminal case involving more  
5 than one defendant, the court shall divide the peremptory challenges for the defense  
6 as equally as practicable among them the defendants; and if their defenses are  
7 adverse and the court is satisfied that the protection of their rights so requires, the  
8 court may allow the defendants additional peremptory challenges. If the crime is  
9 punishable by life imprisonment, the total peremptory challenges allowed the  
10 defense shall not exceed 12 if there are only 2 defendants and 18 if there are more  
11 than 2 defendants; in other felony cases the defendants are allowed additional  
12 peremptory challenges under this subsection, the courts may, if the interest of justice  
13 requires, allow the state additional peremptory challenges.

14 (2) MORE THAN ONE DEFENDANT. Except as provided in subs. (3) and (4), in a  
15 criminal case involving 2 defendants, the defense shall be entitled to 6 peremptory  
16 challenges if there are only, and in a criminal case involving more than 2 defendants  
17 and, the defense shall be entitled to 9 peremptory challenges if there are more than  
18 2. In misdemeanor cases, the state is entitled to 3 peremptory challenges and the  
19 defendant is entitled to 3 peremptory challenges, except that if there are 2  
20 defendants, the court shall allow the defense 4 peremptory challenges, and if there  
21 are more than 2 defendants, the court shall allow the defense 6 peremptory  
22 challenges.

23 (5) ADDITIONAL CHALLENGES. Each side shall be allowed at least one additional  
24 peremptory challenge if the court orders that additional jurors are to be selected  
25 under s. 972.04 (1).

**ASSEMBLY BILL 383**

1           **SECTION 995.** 972.04 (title) of the statutes is repealed and recreated to read:

2           **972.04** (title) **Jury selection.**

3           **SECTION 996.** 972.04 (1) of the statutes is amended to read:

4           972.04 (1) The number of jurors selected in a criminal case shall be prescribed  
5           in s. 756.06 (2) (a) or (am), whichever is applicable, 12 unless a lesser number has  
6           been stipulated agreed to and approved under s. ~~972.02~~ 972.025 (2) ~~or the.~~ The court  
7           orders may order that additional jurors be selected. ~~That number, plus the number~~  
8           of peremptory challenges available to all the parties, shall be called initially and  
9           maintained in the jury box by calling others to replace jurors excused for cause until  
10          all jurors have been examined. The to assure that the required number of jurors will  
11          be available for deliberation.

12          (6) After the jurors have been examined and the court has determined whether  
13          to excuse any juror for cause, the parties shall thereupon exercise in their order their  
14          peremptory challenges alternately, the state beginning, the peremptory challenges  
15          available to them, and if. If any party declines to exercise a peremptory challenge,  
16          the challenge shall be made by the clerk shall make the challenge by lot.

17          **SECTION 997.** 972.04 (2) of the statutes is repealed.

18          **SECTION 998.** 972.04 (3) of the statutes is created to read:

19          972.04 (3) The court shall call and maintain the number of jurors provided in  
20          sub. (1), plus the number of peremptory challenges available to the parties. If a juror  
21          is excused for cause, the court shall replace that juror with another.

22          **SECTION 999.** 972.06 of the statutes is amended to read:

23          **972.06 View Jury view.** The court may order ~~a view by the jury to view a~~  
24          location or object whenever the court concludes that viewing the location or object

**ASSEMBLY BILL 383**

1 would assist the jury in understanding the evidence introduced in court or assist the  
2 jury in weighing and applying that evidence.

3 **SECTION 1000.** 972.07 of the statutes is renumbered 967.12 and amended to  
4 read:

5 **967.12 Jeopardy.** Jeopardy attaches when one of the following occurs:

6 (1) In a trial to the court without a jury, when ~~a witness is sworn;~~ the first  
7 witness assents to the oath or affirmation or answers the first question if no oath or  
8 affirmation is administered.

9 (2) In a jury trial, when the selection of the jury has been completed and the  
10 jury sworn.

11 **SECTION 1001.** 972.075 of the statutes is created to read:

12 **972.075 Questioning of witnesses by jurors.** (1) After selection of a jury,  
13 the court may authorize the jurors to ask questions of witnesses.

14 (2) If the court authorizes juror questions, the court shall instruct the jury to  
15 propose only questions that tend to clarify information already presented and shall  
16 instruct the jury of the following procedure that shall be used for juror questions:

17 (a) After the parties have questioned a witness and before the witness leaves  
18 the stand, the court shall ask the jurors if they have any questions for the witness.

19 (b) If a juror has a question, he or she shall submit the question in writing to  
20 the judge.

21 (c) The judge shall show the question to the parties and allow the parties to  
22 object to the question without the knowledge of the jury.

23 (d) The judge shall review the question and any objections made by the parties  
24 and determine if the question is legally proper.

25 (e) If the question is legally proper, the judge may ask it of the witness.

**ASSEMBLY BILL 383**

1 (f) The court shall allow the parties to ask follow-up questions to any juror  
2 questions that are posed to a witness.

3 **SECTION 1002.** 972.08 of the statutes is renumbered 967.17, and 967.17 (1) and  
4 (2), as renumbered, are amended to read:

5 967.17 (1) (a) Whenever any person refuses to testify or to produce books,  
6 papers, or documents when required to do so before any grand jury, in a John Doe  
7 proceeding under s. ~~968.26~~ 968.105, at an inquest under s. 968.015, or at a  
8 ~~preliminary examination~~, criminal hearing or trial for the reason that the testimony  
9 or evidence required of him or her may tend to incriminate him or her or subject him  
10 or her to a forfeiture or penalty, the person may nevertheless be compelled to testify  
11 or produce the evidence by order of the court on motion of the district attorney. No  
12 person who testifies or produces evidence in obedience to the command of the court  
13 in that case may be liable to any forfeiture or penalty for or on account of testifying  
14 or producing evidence, but no person may be exempted from prosecution and  
15 punishment for perjury or false swearing committed in so testifying.

16 (b) The immunity provided under par. (a) is subject to the restrictions under  
17 s. ~~972.085~~ 967.18.

18 (2) Whenever a witness attending in any court trial or appearing before any  
19 grand jury ~~or, John Doe investigation~~ proceeding under s. ~~968.26~~ 968.105, or inquest  
20 under s. 968.015 fails or refuses without just cause to comply with an order of the  
21 court under this section to give testimony in response to a question or with respect  
22 to any matter, the court, upon such failure or refusal, or when such failure or refusal  
23 is duly brought to its attention, may summarily order the witness's confinement at  
24 a suitable place until such time as the witness is willing to give such testimony or  
25 until such the trial, grand jury term, ~~or John Doe investigation~~ under s. 968.26

**ASSEMBLY BILL 383**

1 proceeding, or inquest is concluded but in no case exceeding one year. No person  
2 confined under this section shall be ~~admitted to bail~~ released on conditions pending  
3 the determination of an appeal taken by the person from the order of confinement.

4 **SECTION 1003.** 972.085 of the statutes is renumbered 967.18 and amended to  
5 read:

6 **967.18 Immunity; use standard.** Immunity from criminal or forfeiture  
7 prosecution under ss. 13.35, 17.16 (7), 77.61 (12), 93.17, 111.07 (2) (b), 128.16, 133.15,  
8 139.20, 139.39 (5), 195.048, 196.48, 551.602 (5), 553.55 (3), 601.62 (5), 767.87 (4),  
9 885.15, 885.24, 885.25 (2), 891.39 (2), ~~968.26, 972.08 (1)~~ 967.17 (1), and ~~979.07 (1)~~  
10 968.105 and ch. 769, provides immunity only from the use of the compelled testimony  
11 or evidence in subsequent criminal or forfeiture proceedings, as well as immunity  
12 from the use of evidence derived from that compelled testimony or evidence.

13 **SECTION 1004.** 972.09 of the statutes is repealed.

14 **SECTION 1005.** 972.10 (title) of the statutes is renumbered 972.16 (title).

15 **SECTION 1006.** 972.10 (1) (a) (intro.) of the statutes is repealed.

16 **SECTION 1007.** 972.10 (1) (a) 1. of the statutes is renumbered 972.065 and  
17 amended to read:

18 **972.065 Note-taking by jurors.** The court may authorize note-taking by  
19 jurors. If the court authorizes note-taking, the court shall instruct the jurors that  
20 they may make written notes of any portion of the proceedings, except the opening  
21 statements and closing arguments, ~~if they so desire~~ and that the court will provide  
22 materials for ~~that purpose if they so request~~ note-taking. The court shall stress the  
23 ~~confidentiality of the notes to~~ inform the jurors that the notes are confidential. The  
24 jurors may refer to their notes during the proceedings and ~~deliberation~~ their  
25 deliberations. The notes may not be the basis for or the object of any motion by any

**ASSEMBLY BILL 383**

1 party. After the jury has rendered returned its verdict, the court shall ensure that  
2 the notes are promptly collected and destroyed.

3 **SECTION 1008.** 972.10 (1) (a) 2. of the statutes is repealed.

4 **SECTION 1009.** 972.10 (1) (b) of the statutes is renumbered 972.095 and  
5 amended to read:

6 **972.095 Preliminary jury instructions.** The court may give additional  
7 preliminary instructions to assist the jury in understanding its duty and the  
8 evidence it will hear. ~~The preliminary instructions may include, without limitation,~~  
9 ~~the elements of any offense charged, what constitutes evidence and what does not,~~  
10 ~~guidance regarding the burden of proof and the credibility of witnesses, and~~  
11 ~~directions not to discuss the case until deliberations begin. The additional~~  
12 ~~instructions shall be disclosed to the parties before they are given and either party~~  
13 ~~may object to any specific instruction or propose instructions of its own to be given~~  
14 ~~prior to trial. The court shall advise the parties of the content of the instructions to~~  
15 ~~be given. The parties may propose instructions of their own. All objections shall be~~  
16 ~~on the record and shall specify with particularity how the instruction is insufficient~~  
17 ~~or does not correctly state the law.~~

18 **SECTION 1010.** 972.10 (2) of the statutes is repealed.

19 **SECTION 1011.** 972.10 (3) of the statutes is repealed.

20 **SECTION 1012.** 972.10 (4) of the statutes is repealed.

21 **SECTION 1013.** 972.10 (5) of the statutes is renumbered 972.22 (1) and amended  
22 to read:

23 **972.22 (1)** ~~When the evidence is concluded and the testimony closed, if either~~  
24 ~~party desires special instructions to be given to the jury, the instructions shall be~~  
25 ~~reduced to writing, signed by the party or his or her attorney and filed with the clerk,~~



**ASSEMBLY BILL 383**

1 unless the court otherwise directs. ~~Counsel for the parties, or the defendant if he or~~  
2 ~~she is without counsel, shall be allowed~~ The court shall allow the parties reasonable  
3 opportunity to request final jury instructions, to examine the any instructions  
4 requested by any other party, and to present and argue to the court objections to the  
5 adoption or rejection of any instructions requested by ~~counsel~~ the parties.

6 **(2)** The court shall advise the parties of the content of the instructions ~~to be~~  
7 given. ~~No instruction regarding the failure to call a witness at the trial shall be made~~  
8 ~~or given if the sole basis for such instruction is the fact the name of the witness~~  
9 ~~appears upon a list furnished pursuant to s. 971.23. Counsel, or the defendant if he~~  
10 ~~or she is not represented by counsel, shall specify and state the particular ground on~~  
11 ~~which the instruction is objected to, and it shall not be sufficient to object generally~~  
12 ~~that the instruction does not state the law, or is against the law, but the objection~~  
13 ~~shall specify with particularity how the instruction is insufficient or does not state~~  
14 ~~the law or to what particular language there is an objection. All objections~~ before  
15 giving the instructions to the jury. If a party objects to the adoption or rejection of  
16 an instruction, the objection shall be made with particularity and shall be on the  
17 record.

18 **(3)** The court shall provide the jury with one or more complete set sets of written  
19 instructions ~~providing~~ defining the burden of proof and the substantive law ~~to be~~  
20 applied to the case to be decided.

21 **SECTION 1014.** 972.10 (6) of the statutes is repealed.

22 **SECTION 1015.** 972.10 (7) of the statutes is renumbered 972.23 (1) and amended  
23 to read:

24 972.23 (1) If the court required selection of additional jurors have been selected  
25 under s. 972.04 (1) so that alternates may be available, and, at the time the case is

**ASSEMBLY BILL 383**

1 ~~submitted to the jury for deliberation, the number of jurors remains more greater~~  
2 ~~than the number of jurors required at final submission of the cause for deliberation,~~  
3 the court shall determine by lot which jurors shall not participate in deliberations  
4 ~~and discharge them. For good cause, the court may discharge additional jurors other~~  
5 ~~than by lot.~~

6 **SECTION 1016.** 972.11 (title) of the statutes is renumbered 967.24 (title).

7 **SECTION 1017.** 972.11 (1) of the statutes is renumbered 967.24 and amended  
8 to read:

9 **967.24** ~~Except as provided in subs. (2) to (4), the~~ The rules of evidence and  
10 practice in civil actions, except the rules under ss. 804.02 to 804.07, shall be  
11 applicable in all criminal proceedings unless the context of a section or rule  
12 manifestly requires a different construction. No guardian ad litem need be  
13 appointed for a defendant in a criminal action. Chapters 885 to 895 and 995, except  
14 ss. 804.02 to 804.07 and 887.23 to 887.26, shall apply in all criminal proceedings.

15 **SECTION 1018.** 972.11 (2) of the statutes is renumbered 904.045, and 904.045  
16 (1), (2) (intro.), (3) and (4) (b), as renumbered, are amended to read:

17 904.045 (1) In this ~~subsection~~ section, “sexual conduct” means any conduct or  
18 behavior relating to sexual activities of the complaining witness, including but not  
19 limited to prior experience of sexual intercourse or sexual contact, use of  
20 contraceptives, living arrangement and life-style.

21 (2) (intro.) If the defendant is accused of a crime under s. 940.225, 948.02,  
22 948.025, 948.05, 948.051, 948.06, 948.07, 948.08, 948.085, 948.09, or 948.095, or  
23 under s. 940.302 (2), if the court finds that the crime was sexually motivated, as  
24 defined in s. 980.01 (5), any evidence concerning the complaining witness’s prior  
25 sexual conduct or opinions of the witness’s prior sexual conduct and reputation as to

**ASSEMBLY BILL 383**

1 prior sexual conduct shall not be admitted into evidence during the course of the  
2 hearing or trial, nor shall any reference to such conduct be made in the presence of  
3 the jury, except the following, subject to s. ~~971.31 (11)~~ 971.65 (6):

4 **(3)** Notwithstanding s. 901.06, the limitation on the admission of evidence of  
5 or reference to the prior sexual conduct of the complaining witness in ~~par. (b) sub. (2)~~  
6 applies regardless of the purpose of the admission or reference unless the admission  
7 is expressly permitted under ~~par. (b) 1., 2. or 3~~ sub. (2) (a), (b), or (c).

8 **(4)** (b) The court shall determine the admissibility of evidence under ~~subd. 1.~~  
9 par. (a) upon pretrial motion before it may be introduced at trial.

10 **SECTION 1019.** 972.11 (2m) (a) (intro.) and 1. of the statutes are renumbered  
11 972.20 (1) (intro.) and (a), and 972.20 (1) (a) 1., as renumbered, is amended to read:

12 972.20 **(1)** (a) 1. That the presence of the defendant during the ~~taking of the~~  
13 child's testimony will result in the child suffering serious emotional distress such  
14 that the child cannot reasonably communicate.

15 **SECTION 1020.** 972.11 (2m) (a) 2. (intro.), a. and b. of the statutes are  
16 consolidated, renumbered 972.20 (1) (b) and amended to read:

17 972.20 **(1)** (b) The trial in which the child may be called as a witness will  
18 commence: ~~a. Prior to before the child's 12th birthday; or b. Prior to the child's 16th~~  
19 ~~birthday and, in addition to its finding under subd. 1., if the court finds that the~~  
20 interests of justice warrant that the child's testimony be taken in a room other than  
21 the courtroom and simultaneously televised in the courtroom by means of  
22 closed-circuit audiovisual equipment, before the child's 16th birthday.

23 **SECTION 1021.** 972.11 (2m) (b) of the statutes is renumbered 972.20 (2), and  
24 972.20 (2) (intro.), (a), (c), (d), (e), (f), (g) and (h), as renumbered, are amended to read:

**ASSEMBLY BILL 383**

1           972.20 (2) (intro.) ~~Among the factors which~~ Factors that the court may consider  
2 in determining the interests of justice under ~~par. (a) 2. b. are any of~~ sub. (1) (b) include  
3 the following:

4           (a) The child's chronological age, level of development, and capacity to  
5 comprehend the significance of the events about which the child will testify and to  
6 verbalize about them.

7           (c) Whether the events about which the child will testify constituted criminal  
8 or antisocial conduct against the child or a person with whom the child had a close  
9 emotional relationship and, if the conduct constituted a battery or a sexual assault,  
10 its duration and the extent of physical or emotional injury ~~thereby caused by the~~  
11 battery or sexual assault.

12           (d) The child's custodial situation and the attitude of other household members  
13 to the events about which the child will testify and ~~to the underlying proceeding~~  
14 towards the trial.

15           (e) The child's familial or emotional relationship to those involved in the  
16 underlying proceeding trial.

17           (f) The child's behavior at or reaction to previous interviews concerning the  
18 events ~~involved~~ about which the child will testify.

19           (g) Whether the child blames himself or herself for the events ~~involved~~ about  
20 which the child will testify or has ever been told by any person not to disclose them;  
21 whether the child's prior reports to associates or authorities of the events have been  
22 disbelieved or not acted upon; and the child's ~~subjective~~ belief regarding what  
23 consequences to himself or herself, or persons with whom the child has a close  
24 emotional relationship, will ensue from providing testimony.

**ASSEMBLY BILL 383**

1 (h) Whether the child manifests or has manifested symptoms associated with  
2 posttraumatic stress disorder or other mental disorders, including, ~~without~~  
3 ~~limitation,~~ reexperiencing the events, fear of their repetition, withdrawal,  
4 regression, guilt, anxiety, stress, nightmares, enuresis, lack of self-esteem, mood  
5 changes, compulsive behaviors, school problems, delinquent or antisocial behavior,  
6 phobias, or changes in interpersonal relationships.

7 **SECTION 1022.** 972.11 (2m) (bm) of the statutes is renumbered 972.20 (3), and  
8 972.20 (3) (intro.), (a) and (d), as renumbered, are amended to read:

9 972.20 (3) (intro.) If a court orders the testimony of a child to be taken under  
10 ~~par. (a) sub. (1),~~ the court shall do all of the following:

11 (a) To the extent it is practical and subject to s. ~~972.10 (3)~~ 972.16 (1), schedule  
12 the testimony on a date when the child's recollection is likely to be fresh and at a time  
13 of day when the child's energy and attention span are likely to be greatest.

14 (d) ~~Determine that the child understands that it is wrong to tell a lie and will~~  
15 ~~testify truthfully if~~ If the child's developmental level or verbal skills are such that  
16 administration of an oath or affirmation in the usual form would be inappropriate,  
17 determine that the child understands that it is wrong to tell a lie and will testify  
18 truthfully.

19 **SECTION 1023.** 972.11 (2m) (c) (intro.), 1m., 2m. and 3m. of the statutes are  
20 renumbered 972.20 (4) (intro.), (a), (b) and (c), and 972.20 (4) (intro.), as renumbered,  
21 is amended to read:

22 972.20 (4) (intro.) Only the following persons may be present in the room in  
23 which the child is giving testimony under ~~par. (a) sub. (1):~~

24 **SECTION 1024.** 972.11 (3) of the statutes is renumbered 940.22 (6), and 940.22  
25 (6) (a) (intro.) and 1., as renumbered, are amended to read:

**ASSEMBLY BILL 383**

1           940.22 (6) (a) (intro.) In a prosecution under s. 940.22 involving a therapist and  
2 a patient or client for a violation of sub. (2), (3) (d), or (4) (d), evidence of the patient's  
3 or client's personal or medical history is not admissible except if all of the following  
4 apply:

5           1. The defendant requests a hearing prior to trial and makes an offer of proof  
6 of the relevancy of the evidence; and.

7           **SECTION 1025.** 972.11 (3m) of the statutes is renumbered 346.63 (8) and  
8 amended to read:

9           346.63 (8) A court may not exclude evidence in any criminal action or traffic  
10 forfeiture action for violation of s. ~~346.63~~ sub. (1) or (5), or a local ordinance in  
11 conformity with s. ~~346.63~~ sub. (1) or (5), on the ground that the evidence existed or  
12 was obtained outside of this state.

13           **SECTION 1026.** 972.11 (4) of the statutes is renumbered 972.29, and 972.29  
14 (intro.), as renumbered, is amended to read:

15           **972.29 Return of evidence.** (intro.) Upon the motion of any party or its own  
16 motion, a court may order that any exhibit or evidence be delivered to the party or  
17 the owner ~~prior to~~ before or after the final determination of the action or proceeding  
18 if all of the following requirements are met:

19           **SECTION 1027.** 972.115 (title) of the statutes is repealed.

20           **SECTION 1028.** 972.115 (1) of the statutes is renumbered 972.18 (1), and 972.18  
21 (1) (a), as renumbered, is amended to read:

22           972.18 (1) (a) "Custodial interrogation" has the meaning given in s. ~~968.073~~  
23 969.165 (1) (a).

24           **SECTION 1029.** 972.115 (2) of the statutes is renumbered 972.18 (3), and 972.18  
25 (3) (a) (intro.), as renumbered, is amended to read:

**ASSEMBLY BILL 383**

1           972.18 (3) (a) (intro.) If a statement made by a defendant during a custodial  
2           interrogation is admitted into evidence in a trial for a felony before a jury and if an  
3           audio or audio and visual recording of the interrogation is not available, upon a  
4           request made by the defendant as ~~provided in s. 972.10 (5)~~ and unless the state  
5           asserts and the court finds that one of the following conditions applies or that good  
6           cause exists for not providing an instruction, the court shall instruct the jury that it  
7           is the policy of this state to make an audio or audio and visual recording of a custodial  
8           interrogation of a person suspected of committing a felony and that the jury may  
9           consider the absence of an audio or audio and visual recording of the interrogation  
10          in evaluating the evidence relating to the interrogation and the statement in the  
11          case:

12           **SECTION 1030.** 972.115 (4) and (5) of the statutes are renumbered 972.18 (3)  
13          (c) and (d), and 972.18 (3) (c), as renumbered, is amended to read:

14           972.18 (3) (c) Notwithstanding ss. ~~968.28~~ 968.315 to ~~968.37~~ 968.405, a  
15          defendant's lack of consent to having an audio or audio and visual recording made  
16          of a custodial interrogation does not affect the admissibility in evidence of an audio  
17          or audio and visual recording of a statement made by the defendant during the  
18          interrogation.

19           **SECTION 1031.** 972.12 of the statutes is renumbered 972.05 and amended to  
20          read:

21           **972.05 Sequestration of jurors.** ~~The~~ At any stage of the proceedings, the  
22          court may direct that ~~the~~ jurors who have been sworn be kept together or be  
23          permitted to separate. The court may appoint an officer of the court to keep the jurors  
24          together and to prevent communication between the jurors and others. After the case

**ASSEMBLY BILL 383**

1 has been submitted to the jurors, the court may permit them to separate, but shall  
2 instruct the jurors to suspend deliberations while separated.

3 **SECTION 1032.** 972.13 (title) of the statutes is repealed.

4 **SECTION 1033.** 972.13 (1) of the statutes is renumbered 972.28 (1) and amended  
5 to read:

6 972.28 (1) ~~A~~ The court shall grant a judgment of conviction shall be entered  
7 upon accepting a jury verdict of guilty by the jury, a, upon finding of the defendant  
8 guilty by the court in cases in a case where a jury is waived, or upon finding the  
9 defendant guilty after accepting a plea of guilty or no contest.

10 **SECTION 1034.** 972.13 (2) of the statutes is renumbered 972.28 (2) and amended  
11 to read:

12 972.28 (2) ~~Except in cases where ch. 975 is applicable~~ Unless entry of judgment  
13 is deferred, upon granting a judgment of conviction, the court shall proceed under ch.  
14 973. The court may adjourn the case from time to time for the purpose of before  
15 pronouncing sentence.

16 **SECTION 1035.** 972.13 (3) of the statutes is renumbered 972.28 (3) and amended  
17 to read:

18 972.28 (3) ~~A~~ When a judgment of conviction is entered, it shall set forth the  
19 plea, the verdict or finding, the adjudication and sentence, and a finding as to the  
20 specific number of days for which sentence credit is to be granted under s. 973.155.

21 **(5)** If the defendant is acquitted, the court shall grant a judgment shall be  
22 entered accordingly of acquittal.

23 **SECTION 1036.** 972.13 (4) of the statutes is renumbered 972.28 (6).

24 **SECTION 1037.** 972.13 (5) of the statutes is renumbered 972.28 (4) and amended  
25 to read:



**ASSEMBLY BILL 383**

1           972.28 (4) A copy of the judgment of conviction shall constitute authority for  
2 the sheriff to execute the sentence.

3           **SECTION 1038.** 972.13 (6) of the statutes is repealed.

4           **SECTION 1039.** 972.13 (7) of the statutes is repealed.

5           **SECTION 1040.** 972.14 (title), (2), (2m) and (3) of the statutes are renumbered  
6 973.003 (title), (2), (2m) and (3), and 973.003 (2), as renumbered, is amended to read:

7           973.003 (2) Before pronouncing sentence, the court shall ask the defendant  
8 why sentence should not be pronounced upon him or her and allow the district  
9 attorney, defense counsel, and defendant an opportunity to make a statement with  
10 respect to any matter relevant to the sentence. In addition, if the defendant is under  
11 21 years of age and if the court has not ordered a presentence investigation under  
12 s. ~~972.15~~ 973.004, the court shall ask the defendant if he or she has been adjudged  
13 delinquent under ch. 48, 1993 stats., or ch. 938, or has had a similar adjudication in  
14 any other state in the 4 years immediately preceding the date the criminal complaint  
15 relating to the present offense was issued.

16           **SECTION 1041.** 972.14 (1) (intro.) and (b) of the statutes are consolidated,  
17 renumbered 973.003 (1) and amended to read:

18           973.003 (1) (intro.) In this section: ~~(b) —“Victim”,~~ “victim” has the meaning  
19 specified in s. 950.02 (4).

20           **SECTION 1042.** 972.14 (1) (ag) of the statutes is repealed.

21           **SECTION 1043.** 972.15 of the statutes is renumbered 973.004, and 973.004 (5)  
22 (intro.), as renumbered, is amended to read:

23           973.004 (5) (intro.) The department may use the presentence investigation  
24 report for correctional programming, parole consideration or care and treatment of  
25 any person sentenced to imprisonment or the intensive sanctions program, placed

**ASSEMBLY BILL 383**

1 on probation, released on parole or extended supervision or committed to the  
2 department under ch. 51 or 971 975 or any other person in the custody of the  
3 department or for research purposes. The department may make the report  
4 available to other agencies or persons to use for purposes related to correctional  
5 programming, parole consideration, care and treatment, or research. Any use of the  
6 report under this subsection is subject to the following conditions:

7 **SECTION 1044.** 972.16 (1) and (2) of the statutes are created to read:

8 972.16 (1) Unless the court for cause otherwise permits, the parties shall  
9 proceed with statements and presentation of evidence in the following order:

10 (a) The state may make an opening statement.

11 (b) The defense may make an opening statement or reserve the right to make  
12 an opening statement until after the state rests its case in chief.

13 (c) The state shall present its case in chief.

14 (d) At the close of the state's case in chief, the defense may move to dismiss.  
15 The court shall grant the motion to dismiss if it appears that, viewing the evidence  
16 in the light most favorable to the state and drawing all reasonable inferences  
17 therefrom, a reasonable jury could not find the defendant guilty beyond a reasonable  
18 doubt. The court shall decide the motion before the defense presents its case in chief.

19 (e) The defense may present a case in chief. If a defendant presents evidence,  
20 the defendant waives the right to appeal the denial of a motion for dismissal made  
21 under par. (d).

22 (f) The state and the defense may present rebuttal evidence.

23 (g) The court for cause may permit a party to present further evidence in chief.  
24 If the court permits the state to present further evidence in chief, the defense may  
25 also present further evidence in chief.

**ASSEMBLY BILL 383**

1 (h) After the state and the defense have rested, the defense may move to  
2 dismiss. The court shall grant the motion to dismiss if it appears that, viewing all  
3 of the evidence, including evidence presented by the defense, in the light most  
4 favorable to the state and drawing all reasonable inferences therefrom, a reasonable  
5 jury could not find the defendant guilty beyond a reasonable doubt of the charged  
6 crime or an included crime under s. 939.66. If the jury could find the defendant guilty  
7 beyond a reasonable doubt of an included crime but not the charged crime, the court  
8 shall order the complaint amended accordingly.

9 (i) The state may make a closing argument.

10 (j) The defense may make a closing argument.

11 (k) The state may make a rebuttal argument.

12 **(2)** If there are 2 or more defendants and they do not agree on the order in which  
13 the defendants will proceed under sub. (1), the court shall determine the order in  
14 which the defendants will proceed.

15 **SECTION 1045.** 972.18 (title) of the statutes is created to read:

16 **972.18 (title) Admissibility of a defendant's statement.**

17 **SECTION 1046.** 972.19 of the statutes is created to read:

18 **972.19 Stipulations. (1)** In this section, "stipulation" means an agreement  
19 between the parties that a specified fact is or shall be taken as established without  
20 need for proof.

21 **(2)** A stipulation shall be set forth on the record at the time the court accepts  
22 it.

23 **(3)** In a trial before a jury, the court shall instruct the jury that it is to take  
24 stipulated facts as conclusively proved.

**ASSEMBLY BILL 383**

1           (4) If stipulated facts establish an element of the crime, the court shall proceed  
2 as provided in s. 972.005 (2).

3           **SECTION 1047.** 972.20 (title) of the statutes is created to read:

4           **972.20 (title) Child testimony by closed-circuit audiovisual means.**

5           **SECTION 1048.** 972.22 (title) of the statutes is created to read:

6           **972.22 (title) Final jury instructions.**

7           **SECTION 1049.** 972.23 (title) of the statutes is created to read:

8           **972.23 (title) Dismissal of alternate jurors.**

9           **SECTION 1050.** 972.23 (2) of the statutes is created to read:

10          **972.23 (2)** The court may retain alternate jurors after the jury retires to  
11 deliberate. The court shall ensure that a retained alternate does not discuss the case  
12 with anyone until that alternate replaces a juror or is discharged. If an alternate  
13 replaces a juror after deliberations have begun, the court shall instruct the jury to  
14 begin its deliberations anew.

15          **SECTION 1051.** 972.24 of the statutes is created to read:

16          **972.24 Return of verdict.** A verdict must be unanimous and returned in open  
17 court.

18          **SECTION 1052.** 972.25 of the statutes is created to read:

19          **972.25 Polling the jury.** The court shall poll the jury when a verdict proper  
20 in form is returned. The court or the clerk shall conduct the poll by asking each juror  
21 individually whether the verdict as returned was and is in the juror's verdict.

22          **SECTION 1053.** 972.26 of the statutes is created to read:

23          **972.26 Accepting the verdict. (1)** The court shall accept the verdict if it is  
24 proper in form and confirmed by the jury poll. When the verdict is accepted, the jury  
25 shall be discharged.

**ASSEMBLY BILL 383**

1           **(2)** After the verdict is accepted, the complaint shall be deemed amended as to  
2 technical variances to conform to the proof if no objection to the relevance of the  
3 evidence was timely raised.

4           **SECTION 1054.** 972.28 (title) of the statutes is created to read:

5           **972.28 (title) Granting judgment.**

6           **SECTION 1055.** 973.013 (4) of the statutes is amended to read:

7           973.013 **(4)** If information under s. ~~972.15~~ 973.004 (2m) has been provided in  
8 a presentence investigation report, the court shall consider that information when  
9 sentencing the defendant.

10          **SECTION 1056.** 973.017 (6m) (a) 2. of the statutes is amended to read:

11          973.017 **(6m)** (a) 2. "Domestic abuse" has the meaning given in s. ~~968.075~~  
12 969.27 (1) (a).

13          **SECTION 1057.** 973.03 (3) (b) of the statutes is amended to read:

14          973.03 **(3)** (b) The court may require that the defendant perform community  
15 service work for a public agency or a nonprofit charitable organization. The number  
16 of hours of work required may not exceed what would be reasonable considering the  
17 seriousness of the offense and any ~~other offense which is read into the record at the~~  
18 ~~time of conviction~~ read-in crimes. An order may only apply if agreed to by the  
19 defendant and the organization or agency. The court shall ensure that the defendant  
20 is provided a written statement of the terms of the community service order and that  
21 the community service order is monitored.

22          **SECTION 1058.** 973.03 (3) (e) 2. of the statutes is amended to read:

23          973.03 **(3)** (e) 2. A crime which is a Class D, E, F, or G felony listed in s. ~~969.08~~  
24 ~~(10)~~ 969.51 (7) (b), but not including any crime specified in s. 943.10.

25          **SECTION 1059.** 973.03 (4) (d) of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           973.03 (4) (d) A sentence under this subsection is not a sentence of  
2 imprisonment, except for purposes of ss. 973.04, 973.15 (8) (a) and ~~973.19~~ 974.03.

3           **SECTION 1060.** 973.03 (5) (a) 1. of the statutes is amended to read:

4           973.03 (5) (a) 1. "Commission of a serious crime" has the meaning given under  
5 s. ~~969.08 (10)~~ 969.51 (7) (a).

6           **SECTION 1061.** 973.03 (5) (a) 2. of the statutes is amended to read:

7           973.03 (5) (a) 2. "Serious crime" has the meaning given under s. ~~969.08 (10)~~  
8 969.51 (7) (b).

9           **SECTION 1062.** 973.042 (4) of the statutes is amended to read:

10          973.042 (4) After determining the amount due, the clerk of court shall collect  
11 and transmit the amount to the county treasurer under s. 59.40 (2) (m). The county  
12 treasurer shall then make payment to the secretary of administration under s. 59.25  
13 (3) (f) 2.

14          **SECTION 1063.** 973.043 (2) of the statutes is amended to read:

15          973.043 (2) After determining the amount due, the clerk of court shall collect  
16 and transmit the amount to the county treasurer under s. 59.40 (2) (m). The county  
17 treasurer shall then make payment to the secretary of administration under s. 59.25  
18 (3) (f) 2.

19          **SECTION 1064.** 973.045 (2) of the statutes, as affected by 2013 Wisconsin Act  
20 20, is amended to read:

21          973.045 (2) After the clerk determines the amount due, the clerk of court shall  
22 collect and transmit the amount to the county treasurer under s. 59.40 (2) (m). The  
23 county treasurer shall then make payment to the secretary of administration under  
24 s. 59.25 (3) (f) 2. The secretary of administration shall credit to the appropriation

**ASSEMBLY BILL 383**

1 account under s. 20.455 (5) (g) the amount paid to the secretary by the county  
2 treasurer under this subsection and any amount collected under sub. (4).

3 **SECTION 1065.** 973.046 (2) of the statutes is amended to read:

4 973.046 (2) After the clerk of court determines the amount due, the clerk shall  
5 collect and transmit the amount to the county treasurer under s. 59.40 (2) (m). The  
6 county treasurer shall then make payment to the secretary of administration under  
7 s. 59.25 (3) (f) 2.

8 **SECTION 1066.** 973.048 (5) of the statutes is amended to read:

9 973.048 (5) If the court orders a person to comply with the reporting  
10 requirements under s. 301.45, the clerk of the court in which the order is entered  
11 shall promptly forward a copy of the order to the department of corrections. If the  
12 conviction on which the order is based is reversed, set aside or vacated, the clerk of  
13 the court shall promptly forward to the department of corrections a certificate stating  
14 that the conviction has been reversed, set aside or vacated.

15 **SECTION 1067.** 973.049 (1) (b) of the statutes is repealed.

16 **SECTION 1068.** 973.05 (3) (b) of the statutes is amended to read:

17 973.05 (3) (b) The court may require that the defendant perform community  
18 service work for a public agency or a nonprofit charitable organization. The number  
19 of hours of work required may not exceed what would be reasonable considering the  
20 seriousness of the offense and any other offense which is read into the record at the  
21 time of conviction read-in crimes. An order may only apply if agreed to by the  
22 defendant and the organization or agency. The court shall ensure that the defendant  
23 is provided a written statement of the terms of the community service order and that  
24 the community service order is monitored.

25 **SECTION 1069.** 973.05 (4) (b) of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           973.05 (4) (b) Issue an order assigning not more than 25% of the defendant's  
2           commissions, earnings, salaries, wages, pension benefits, benefits under ch. 102, and  
3           other money due or to be due in the future to the clerk of ~~circuit court~~ for payment  
4           of the unpaid fine, surcharge, costs, or fees. In this paragraph, "employer" includes  
5           the state and its political subdivisions.

6           **SECTION 1070.** 973.05 (4) (c) of the statutes is amended to read:

7           973.05 (4) (c) Issue an order assigning lottery prizes won by a defendant whose  
8           name is on the list supplied to the clerk of ~~circuit court~~ under s. 565.30 (5r) (a), for  
9           payment of the unpaid fine, surcharge, costs, or fees.

10          **SECTION 1071.** 973.05 (5) (a) 1. of the statutes is amended to read:

11          973.05 (5) (a) 1. Upon entry of the assignment under sub. (4) (b), unless the  
12          court finds that income withholding is likely to cause the defendant irreparable  
13          harm, the court shall provide notice of the assignment by regular mail to the  
14          last-known address of the person from whom the defendant receives or will receive  
15          money. If the clerk of ~~circuit court~~ does not receive the money from the person  
16          notified, the court shall provide notice of the assignment to any other person from  
17          whom the defendant receives or will receive money. Notice of an assignment under  
18          sub. (4) (b) shall inform the intended recipient that, if a prior assignment under sub.  
19          (4) (b) has been received relating to the same defendant, the recipient is required to  
20          notify the clerk of ~~circuit court~~ that sent the subsequent notice of assignment that  
21          another assignment has already been received. A notice of assignment shall include  
22          a form permitting the recipient to designate on the form that another assignment has  
23          already been received.

24          **SECTION 1072.** 973.05 (5) (a) 2. of the statutes is amended to read:



**ASSEMBLY BILL 383**

1           973.05 (5) (a) 2. If, after receiving the annual list under s. 565.30 (5r) (a), the  
2 clerk of ~~circuit court~~ determines that a person identified in the list may be subject  
3 to an assignment under sub. (4) (c), the clerk shall inform the court of that  
4 determination. If the court issues an order under sub. (4) (c), the clerk of ~~circuit court~~  
5 shall send the notice of that order to the administrator of the lottery division of the  
6 department of revenue, including a statement of the amount owed under the  
7 judgment and the name and address of the person owing the judgment. The court  
8 shall notify the administrator of the lottery division of the department of revenue  
9 when the judgment that is the basis of the assignment has been paid in full.

10           **SECTION 1073.** 973.05 (5) (c) of the statutes is amended to read:

11           973.05 (5) (c) A person who receives notice of the assignment under sub. (4) (b)  
12 shall withhold the amount specified in the notice from any money that person pays  
13 to the defendant later than one week after receipt of the notice of assignment. Within  
14 5 days after the day on which the person pays money to the defendant, the person  
15 shall send the amount withheld to the clerk of ~~circuit~~ the court of the jurisdiction  
16 providing notice. If the person has already received a notice of an assignment under  
17 sub. (4) (b), the person shall retain the later assignment and withhold the amount  
18 specified in that assignment after the last of any prior assignments is paid in full.  
19 Within 10 days of receipt of the later notice, the person shall notify the clerk of ~~circuit~~  
20 the court that sent the notice that the person has received a prior notice of an  
21 assignment under sub. (4) (b). Section 241.09 does not apply to assignments under  
22 this section.

23           **SECTION 1074.** 973.05 (5) (d) of the statutes is amended to read:

24           973.05 (5) (d) If after receipt of notice of assignment under par. (a) 1. the person  
25 from whom the defendant receives money fails to withhold the money or send the

**ASSEMBLY BILL 383**

1 money to the clerk of circuit court as provided in this subsection, the person may be  
2 proceeded against under the principal action under ch. 785 for contempt of court or  
3 may be proceeded against under ch. 778 and be required to forfeit not less than \$50  
4 nor more than an amount, if the amount exceeds \$50, that is equal to 1% of the  
5 amount not withheld or sent.

6 **SECTION 1075.** 973.05 (5) (e) of the statutes is amended to read:

7 973.05 (5) (e) If an employer who receives notice of an assignment under sub.  
8 (4) (b) fails to notify the clerk of circuit court within 10 days after an employee is  
9 terminated or otherwise temporarily or permanently leaves the employer's  
10 employment, the employer may be proceeded against under the principal action  
11 under ch. 785 for contempt of court.

12 **SECTION 1076.** 973.055 (2) (a) of the statutes is amended to read:

13 973.055 (2) (a) If the surcharge is imposed by a court of record, after the court  
14 determines the amount due, the clerk of the court shall collect and transmit the  
15 amount to the county treasurer as provided in s. 59.40 (2) (m). The county treasurer  
16 shall then make payment to the secretary of administration as provided in s. 59.25  
17 (3) (f) 2.

18 **SECTION 1077.** 973.06 (1) (av) 2. a. and b. of the statutes are amended to read:

19 973.06 (1) (av) 2. a. The defendant was charged under s. 946.41 solely because  
20 he or she recanted a report of abusive conduct, including interspousal battery, as  
21 described under s. 940.19 or 940.20 (1m), domestic abuse, as defined in s. 49.165 (1)  
22 (a), 813.12 (1) (am), or ~~968.075~~ 969.27 (1) (a), harassment, as defined in s. 813.125  
23 (1), sexual exploitation by a therapist under s. 940.22, sexual assault under s.  
24 940.225, child abuse, as defined under s. 813.122 (1) (a), or child abuse under ss.  
25 948.02 to 948.11.

**ASSEMBLY BILL 383**

1           b. The defendant was a victim of abusive conduct, including interspousal  
2 battery, as described under s. 940.19 or 940.20 (1m), domestic abuse, as defined in  
3 s. 49.165 (1) (a), 813.12 (1) (am), or ~~968.075~~ 969.27 (1) (a), harassment, as defined in  
4 s. 813.125 (1), sexual exploitation by a therapist under s. 940.22, sexual assault  
5 under s. 940.225, child abuse, as defined under s. 813.122 (1) (a), or child abuse under  
6 ss. 948.02 to 948.11, and he or she was charged under s. 946.41 based on information  
7 he or she omitted or false information he or she provided during the course of an  
8 investigation into the crime committed against him or her.

9           **SECTION 1078.** 973.06 (1) (h) of the statutes is amended to read:

10           973.06 (1) (h) The cost of performance of a test under s. ~~968.38~~ 968.725, if  
11 ordered by the court.

12           **SECTION 1079.** 973.076 (2) (a) of the statutes is amended to read:

13           973.076 (2) (a) The district attorney of the county within which the property  
14 was seized or in which the defendant is convicted shall commence the forfeiture  
15 action within 30 days after the seizure of the property or the date of conviction,  
16 whichever is earlier, except that the defendant may request that the forfeiture  
17 proceedings be adjourned until after adjudication of any charge concerning a crime  
18 which was the basis for the seizure of the property. The request shall be granted.  
19 The forfeiture action shall be commenced by filing a summons, complaint and  
20 affidavit of the person who seized the property with the clerk of ~~circuit court~~,  
21 provided service of authenticated copies of those papers is made in accordance with  
22 ch. 801 within 90 days after filing upon the person from whom the property was  
23 seized and upon any person known to have a bona fide perfected security interest in  
24 the property.

25           **SECTION 1080.** 973.08 (5) of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           973.08 (5) The clerk of court shall file or deliver a transcript under sub. (2), (3)  
2 or (4).

3           **SECTION 1081.** 973.09 (2) (a) 1. b. of the statutes is amended to read:

4           973.09 (2) (a) 1. b. A misdemeanor that was an act of domestic abuse, as defined  
5 in s. ~~968.075~~ 969.27 (1) (a).

6           **SECTION 1082.** 973.09 (3) (b) of the statutes is amended to read:

7           973.09 (3) (b) The department shall notify the sentencing court, any person to  
8 whom unpaid restitution is owed and the district attorney of the status of the ordered  
9 restitution payments unpaid at least 90 days before the probation expiration date.  
10 If payment as ordered has not been made, the court shall hold a probation review  
11 hearing prior to the expiration date, unless the hearing is voluntarily waived by the  
12 probationer with the knowledge that waiver may result in an extension of the  
13 probation period or in a revocation of probation. If the court does not extend  
14 probation, it shall issue a judgment for the unpaid restitution and direct the clerk  
15 of circuit court to file and enter the judgment in the judgment and lien docket,  
16 without fee, unless it finds that the victim has already recovered a judgment against  
17 the probationer for the damages covered by the restitution order. If the court issues  
18 a judgment for the unpaid restitution, the court shall send to the person at his or her  
19 last-known address written notification that a civil judgment has been issued for the  
20 unpaid restitution. The judgment has the same force and effect as judgments  
21 entered under s. 806.10.

22           **SECTION 1083.** 973.09 (3) (bm) 4. of the statutes is amended to read:

23           973.09 (3) (bm) 4. If the court does not extend or modify the terms of probation  
24 under subd. 3., it shall issue a judgment for the unpaid fees and direct the clerk of  
25 circuit court to file and enter the judgment in the judgment and lien docket, without

**ASSEMBLY BILL 383**

1 fee. If the court issues a judgment for the unpaid fees, the court shall send to the  
2 department a written notification that a civil judgment has been issued for the  
3 unpaid fees. The judgment has the same force and effect as judgments entered under  
4 s. 806.10.

5 **SECTION 1084.** 973.09 (7m) (a) of the statutes is amended to read:

6 973.09 (7m) (a) Except as provided in s. 943.017 (3), the court may require as  
7 a condition of probation that the probationer perform community service work for a  
8 public agency or a nonprofit charitable organization. The number of hours of work  
9 required may not exceed what would be reasonable considering the seriousness of the  
10 offense and any ~~other offense which is read into the record at the time of conviction~~  
11 read-in crimes. An order may only apply if agreed to by the probationer and the  
12 organization or agency. The court shall ensure that the probationer is provided a  
13 written statement of the terms of the community service order and that the  
14 community service order is monitored. If the court requires the conditions provided  
15 in this subsection and sub. (4), the probationer reduces the period of confinement  
16 under sub. (4) at a rate of one day for each 3 days of work performed. A day of work  
17 equals 8 hours of work performed.

18 **SECTION 1085.** 973.10 (2m) of the statutes is amended to read:

19 973.10 (2m) In any administrative hearing under sub. (2), the hearing  
20 examiner may order that a deposition be taken by audiovisual means and allow the  
21 use of a recorded deposition under s. ~~967.04 (7) to (10)~~ 967.22.

22 **SECTION 1086.** 973.135 (3) of the statutes is amended to read:

23 973.135 (3) If a conviction under sub. (2) is reversed, set aside or vacated, the  
24 clerk of the court shall promptly forward to the state superintendent a certificate  
25 stating that the conviction has been reversed, set aside or vacated.

**ASSEMBLY BILL 383**

1           **SECTION 1087.** 973.18 (title) of the statutes is renumbered 973.25 (title).

2           **SECTION 1088.** 973.18 (1) of the statutes is renumbered 973.25 (1) and amended  
3 to read:

4           973.25 (1) In this section, “postconviction relief” and “sentencing” have the  
5 meanings ascribed in s. 809.30 (1) means an appeal or a motion for postconviction  
6 relief in a criminal case, other than an appeal, motion, or petition under s. 302.113  
7 (7m), 302.1135, 973.195, 974.03, 974.06, or 974.07 (2).

8           **SECTION 1089.** 973.18 (2), (3) and (4) of the statutes are renumbered 973.25 (2),  
9 (3) and (4) and amended to read:

10           973.25 (2) ~~The trial judge~~ At the time of sentencing, the court shall personally  
11 inform the defendant ~~at the time of sentencing, orally or in writing,~~ of the defendant’s  
12 right to ~~seek~~ pursue postconviction relief and, if the defendant is indigent, of the  
13 defendant’s right to the assistance of the state public defender.

14           (3) Before adjourning ~~concluding~~ the sentencing proceeding, the judge court  
15 shall direct the defendant and defendant’s trial counsel to sign a form to be entered  
16 in the record, indicating that the lawyer trial counsel has counseled the defendant  
17 regarding the decision to ~~seek~~ pursue postconviction relief, and that the defendant  
18 understands that a notice of intent to pursue postconviction relief must be filed in  
19 the trial court within 20 days after sentencing for ~~that~~ the right to pursue  
20 postconviction relief to be preserved. The court shall give the defendant a copy of the  
21 form.

22           (4) The judge ~~shall direct~~ court shall make appropriate orders to allow the  
23 defendant’s counsel defendant to confer with ~~the defendant~~ before signing the form,  
24 during the proceeding or as soon thereafter as practicable, and may make

**ASSEMBLY BILL 383**

1 ~~appropriate orders to allow the defendant to confer with counsel before being~~  
2 ~~transferred to the state prison. The defendant shall be given a copy of the form.~~

3 **SECTION 1090.** 973.18 (5) of the statutes is renumbered 973.25 (5).

4 **SECTION 1091.** 973.19 (title) of the statutes is renumbered 974.03 (title).

5 **SECTION 1092.** 973.19 (1) (a) of the statutes is renumbered 974.03 (1) (a) and  
6 amended to read:

7 974.03 (1) (a) A ~~person~~ defendant sentenced to imprisonment or the intensive  
8 sanctions program or ordered to pay a fine who has not requested the preparation  
9 of transcripts under s. 809.30 (2) may, within 90 days after the sentence or order or  
10 fine is entered imposed, move the circuit court to modify the sentence or the amount  
11 of the fine.

12 **SECTION 1093.** 973.19 (1) (b) of the statutes is renumbered 974.03 (2) and  
13 amended to read:

14 974.03 (2) A ~~person~~ defendant who has requested transcripts under s. 809.30  
15 (2) may move for modification of a sentence or fine under s. 809.30 (2) (h).

16 **SECTION 1094.** 973.19 (2), (3), (4) and (5) of the statutes are renumbered 974.03  
17 (1) (b), (c), (d) and (e) and amended to read:

18 974.03 (1) (b) Within 90 days after a motion under ~~sub. (1) par.~~ (a) is filed, the  
19 circuit court shall enter an order either determining the motion or, for cause,  
20 extending the time for doing so by not more than 90 days ~~for cause~~.

21 (c) If an order determining a motion under ~~sub. (1) par.~~ (a) is not entered timely  
22 under ~~sub. (2) par. (b)~~, the motion shall be considered denied and the clerk of the court  
23 shall immediately enter an order denying the motion.

**ASSEMBLY BILL 383**

1           (d) ~~An~~ The rules governing civil appeals govern an appeal from an order  
2 determining a motion under sub. (1) par. (a) ~~is governed by the procedure for civil~~  
3 ~~appeals.~~

4           (e) By filing a motion under sub. (1) par. (a) the defendant waives his or her  
5 right to file an appeal or postconviction motion under s. 809.30 (2).

6           **SECTION 1095.** 973.195 (1r) (e) of the statutes is amended to read:

7           973.195 (1r) (e) Notwithstanding the confidentiality of victim address  
8 information obtained under s. ~~302.1135 (7) (e)~~ 302.113 (9g) (g) 3., a district attorney  
9 who is required to send notice to a victim under par. (d) may obtain from the clerk  
10 ~~of the circuit court~~ victim address information that the victim provided to the clerk  
11 under s. ~~302.1135 (7) (e)~~ 302.113 (9g) (g) 3.

12           **SECTION 1096.** 973.20 (1g) of the statutes is repealed.

13           **SECTION 1097.** 973.20 (1r) of the statutes is amended to read:

14           973.20 (1r) When imposing sentence or ordering probation for any crime, other  
15 than a crime involving conduct that constitutes domestic abuse under s. 813.12 (1)  
16 (am) or ~~968.075~~ 969.27 (1) (a), for which the defendant was convicted, the court, in  
17 addition to any other penalty authorized by law, shall order the defendant to make  
18 full or partial restitution under this section to any victim of a crime considered at  
19 sentencing or, if the victim is deceased, to his or her estate, unless the court finds  
20 substantial reason not to do so and states the reason on the record. When imposing  
21 sentence or ordering probation for a crime involving conduct that constitutes  
22 domestic abuse under s. 813.12 (1) (am) or ~~968.075~~ 969.27 (1) (a) for which the  
23 defendant was convicted or that was considered at sentencing, the court, in addition  
24 to any other penalty authorized by law, shall order the defendant to make full or  
25 partial restitution under this section to any victim of a crime or, if the victim is



**ASSEMBLY BILL 383**

1       deceased, to his or her estate, unless the court finds that imposing full or partial  
2       restitution will create an undue hardship on the defendant or victim and describes  
3       the undue hardship on the record. Restitution ordered under this section is a  
4       condition of probation, extended supervision, or parole served by the defendant for  
5       a crime for which the defendant was convicted. After the termination of probation,  
6       extended supervision, or parole, or if the defendant is not placed on probation,  
7       extended supervision, or parole, restitution ordered under this section is enforceable  
8       in the same manner as a judgment in a civil action by the victim named in the order  
9       to receive restitution or enforced under ch. 785.

10       **SECTION 1098.** 973.20 (9m) of the statutes is amended to read:

11       973.20 **(9m)** When restitution is ordered, the court shall inquire to see if  
12       recompense has been made under s. ~~969.13 (5) (a)~~ 969.42. If recompense has been  
13       made and the restitution ordered is less than or equal to the recompense, the  
14       restitution shall be applied to the payment of costs and, if any restitution remains  
15       after the payment of costs, to the payment of the judgment. If recompense has been  
16       made and the restitution ordered is greater than the recompense, the victim shall  
17       receive an amount equal to the amount of restitution less the amount of recompense  
18       and the balance shall be applied to the payment of costs and, if any restitution  
19       remains after the payment of costs, to the payment of the judgment. This subsection  
20       applies without regard to whether the person who paid the recompense is the person  
21       who is convicted of the crime.

22       **SECTION 1099.** 973.20 (11) (a) of the statutes is amended to read:

23       973.20 **(11)** (a) Except as otherwise provided in this paragraph, the restitution  
24       order shall require the defendant to deliver the amount of money or property due as  
25       restitution to the department for transfer to the victim or other person to be

**ASSEMBLY BILL 383**

1 compensated by a restitution order under this section. If the defendant is not placed  
2 on probation or sentenced to prison, the court may order that restitution be paid to  
3 the clerk of court for transfer to the appropriate person. The court shall impose on  
4 the defendant a restitution surcharge under ch. 814 equal to 5% of the total amount  
5 of any restitution, costs, attorney fees, court fees, fines, and surcharges ordered  
6 under s. 973.05 (1) and imposed under ch. 814, which shall be paid to the department  
7 or the clerk of court for administrative expenses under this section.

8 **SECTION 1100.** 973.20 (12) (c) of the statutes is amended to read:

9 973.20 (12) (c) If a defendant is subject to more than one order under this  
10 section and the financial obligations under any order total \$50 or less, the  
11 department or the clerk of court, whichever is applicable under sub. (11) (a), may pay  
12 these obligations first.

13 **SECTION 1101.** 974.02 of the statutes is amended to read:

14 **974.02 Appeals and postconviction relief in criminal cases Direct**  
15 **appeals.** (1) ~~A motion for postconviction relief other than under s. 974.06 or 974.07~~  
16 ~~(2) by the defendant in a criminal case shall be made in the time and manner~~  
17 ~~provided in s. 809.30. An appeal by the~~ The defendant in a criminal case may appeal  
18 from a judgment of conviction or from an order denying a postconviction motion or  
19 from both. A direct appeal from a judgment of conviction shall be taken in the time  
20 and manner provided in ss. 808.04 (3) and 809.30. ~~An appeal of an order or judgment~~  
21 ~~on habeas corpus remanding to custody a prisoner committed for trial under s. 970.03~~  
22 ~~shall be taken under ss. 808.03 (2) and 809.50, with notice to the attorney general~~  
23 ~~and the district attorney and opportunity for them to be heard to 809.32.~~

**ASSEMBLY BILL 383**

1           (2) An appellant is not required to file a postconviction motion in the trial  
2     circuit court prior to an appeal if the grounds are sufficiency of the evidence or issues  
3     previously raised.

4           **SECTION 1102.** 974.05 (1) (intro.) of the statutes is amended to read:

5           974.05 (1) (intro.) Within the time period specified by s. 808.04 (4) and in the  
6     manner provided for civil appeals under chs. 808 and 809, ~~an appeal may be taken~~  
7     by the state ~~from~~ may appeal any of the following:

8           **SECTION 1103.** 974.05 (1) (a), (b), (c) and (d) (intro.), 1. and 2. of the statutes are  
9     amended to read:

10          974.05 (1) (a) ~~Final~~ A final order or judgment adverse to the state, whether  
11     following a trial or a plea of guilty or no contest, if the appeal would not be prohibited  
12     by constitutional protections against double jeopardy.

13          (b) ~~Order~~ An order granting postconviction relief under s. 974.02, 974.03,  
14     974.06, or 974.07.

15          (c) ~~Judgment~~ A judgment and sentence or order of probation not authorized by  
16     law.

17          (d) (intro.) ~~Order~~ An order or judgment the substantive effect of which results  
18     in any of the following:

- 19           1. Quashing an arrest warrant;  
20           2. Suppressing evidence; ~~or,~~

21          **SECTION 1104.** 974.05 (2) of the statutes is amended to read:

22          974.05 (2) If the defendant appeals or prosecutes a writ of error, the state may  
23     ~~move to review rulings of which it complains~~ cross-appeal any order, judgment, or  
24     sentence described in sub. (1) (a) to (d), as provided by in s. 809.10 (2) (b).

25          **SECTION 1105.** 974.05 (3) of the statutes is repealed.

**ASSEMBLY BILL 383**

1           **SECTION 1106.** 974.06 (title), (1), (2) and (3) (intro.), (a), (b) and (d) of the  
2 statutes are amended to read:

3           **974.06 (title) Postconviction Collateral postconviction procedure. (1)**  
4 ~~After~~ At any time after the time for direct appeal or postconviction remedy provided  
5 in s. 974.02 has expired, a prisoner who is in custody under sentence of a court ~~or a~~  
6 ~~person convicted and placed with a volunteers in probation program under s. 973.11~~  
7 ~~claiming and who claims~~ the right to be released upon the ground that the sentence  
8 was imposed in violation of the U.S. constitution or the constitution or laws of this  
9 state, that the court ~~was without~~ lacked jurisdiction to impose such the sentence, or  
10 that the sentence ~~was in excess of~~ exceeded the maximum authorized by law or is  
11 otherwise subject to collateral ~~attaek~~ review, may move the court which imposed the  
12 sentence to vacate, set aside, or correct the sentence.

13           **(2)** ~~A copy of the motion for such relief is a part of the original criminal action,~~  
14 ~~is not a separate proceeding and may be made at any time~~ under sub. (1) must be  
15 served on the district attorney.

16           **(2m)** A motion under sub. (1) is part of the original criminal action, is not a  
17 separate proceeding, and may be made at any time. The supreme court may  
18 prescribe the form of the motion.

19           **(3)** (intro.) Unless the motion under sub. (1) and the files and records of the  
20 action conclusively show that the ~~person~~ prisoner is entitled to no relief, the court  
21 shall do all of the following:

22           (a) ~~Cause a copy of the notice to be served upon~~ Order the district attorney who  
23 shall to file a written response within the time prescribed by the court.

24           (b) If it appears that counsel is necessary and if the ~~defendant~~ prisoner claims  
25 or appears to be indigent, refer the ~~person~~ prisoner to the appellate division of the

**ASSEMBLY BILL 383**

1 state public defender for an indigency determination and appointment of counsel  
2 under ch. 977. The court shall forward a copy of the motion and any response of the  
3 district attorney to the state public defender.

4 (d) Determine the issues and make findings of fact and conclusions of law. If  
5 the court finds that it rendered the judgment was rendered without jurisdiction, ~~or~~  
6 that the sentence imposed was not authorized by law or is otherwise open to  
7 collateral ~~attaek~~ review, or that there has been such a denial or infringement of the  
8 constitutional rights of the ~~person~~ prisoner as to render the judgment vulnerable to  
9 collateral ~~attaek~~ review, the court shall vacate and set aside the judgment ~~aside~~ and  
10 shall discharge the ~~person~~ prisoner or resentence ~~him or her or the prisoner~~, grant  
11 the prisoner a new trial, or correct the sentence as may appear appropriate.

12 **SECTION 1107.** 974.06 (4) of the statutes is amended to read:

13 974.06 (4) All grounds for relief available to a ~~person~~ prisoner under this  
14 section must be raised in his or her original, supplemental, or amended motion. Any  
15 ground finally adjudicated or not so raised, or knowingly, voluntarily, and  
16 intelligently waived in the proceeding that resulted in the conviction or sentence or  
17 in any other proceeding the ~~person~~ prisoner has taken to secure relief may not be the  
18 basis for a subsequent motion, unless the court finds a ground for relief asserted  
19 ~~which~~ that, for sufficient reason, was not asserted or was inadequately raised in the  
20 original, supplemental, or amended motion.

21 **SECTION 1108.** 974.06 (5), (6), (7) and (8) of the statutes are amended to read:

22 974.06 (5) ~~A~~ Subject to s. 974.08, a court may entertain and determine such  
23 a motion under sub. (1) without requiring the production of the prisoner at the  
24 hearing. The court may hear the motion may be heard by telephone or live  
25 audiovisual means under s. 807.13.

**ASSEMBLY BILL 383**

1 (6) Proceedings under this section shall be considered civil in nature, and the  
2 burden of proof shall be upon the ~~person~~ prisoner.

3 (7) ~~An A prisoner may appeal may be taken from the an order entered on the~~  
4 ~~motion under sub. (1) as ~~from~~ if the order were a final judgment.~~

5 (8) ~~A court may not entertain a petition for a writ of habeas corpus or an action~~  
6 ~~seeking that remedy in on behalf of a ~~person~~ prisoner who is authorized to apply for~~  
7 ~~relief by motion under this section shall not be entertained sub. (1) if it appears that~~  
8 ~~the applicant prisoner has failed to apply for relief, by file a motion, to under sub. (1)~~  
9 ~~with the court which sentenced the ~~person~~ prisoner, or that the court has denied the~~  
10 ~~person relief motion, unless it also appears that the remedy by motion is inadequate~~  
11 ~~or ineffective to test the legality of ~~his or her~~ the prisoner's detention.~~

12 **SECTION 1109.** 974.07 (4) (b) of the statutes is amended to read:

13 974.07 (4) (b) Notwithstanding the limitation on the disclosure of mailing  
14 addresses from completed information cards submitted by victims under ss. 51.37  
15 (10) (dx), 301.046 (4) (d), 301.048 (4m) (d), 301.38 (4), 302.105 (4), 304.06 (1) (f),  
16 304.063 (4), 938.51 (2), ~~971.17 (6m) (d)~~ 975.62 (4), and 980.11 (4), the department of  
17 corrections, the parole commission, and the department of health services shall,  
18 upon request, assist clerks of court in obtaining information regarding the mailing  
19 address of victims for the purpose of sending copies of motions and notices of hearings  
20 under par. (a).

21 **SECTION 1110.** 974.07 (7) (b) 1. of the statutes is amended to read:

22 974.07 (7) (b) 1. It is reasonably probable that the outcome of the proceedings  
23 that resulted in the conviction, the finding of not guilty by reason of mental disease  
24 or defect, or the delinquency adjudication for the offense at issue in the motion under  
25 sub. (2), or the terms of the sentence, the commitment under s. ~~971.17~~ subch. III of

**ASSEMBLY BILL 383**

1 ch. 975, or the disposition under ch. 938, would have been more favorable to the  
2 movant if the results of deoxyribonucleic acid testing had been available before he  
3 or she was prosecuted, convicted, found not guilty by reason of mental disease or  
4 defect, or adjudicated delinquent for the offense.

5 **SECTION 1111.** 974.07 (9) (a) of the statutes is amended to read:

6 974.07 (9) (a) If a person other than the movant is in custody, as defined in s.  
7 ~~968.205~~ 968.645 (1) (a), the evidence is relevant to the criminal, delinquency, or  
8 commitment proceeding that resulted in the person being in custody, the person has  
9 not been denied deoxyribonucleic acid testing or postconviction relief under this  
10 section, and the person has not waived his or her right to preserve the evidence under  
11 s. 165.81 (3), 757.54 (2), ~~968.205~~ 968.645, or 978.08, the court shall order the evidence  
12 preserved until all persons entitled to have the evidence preserved are released from  
13 custody, and the court shall designate who shall preserve the evidence.

14 **SECTION 1112.** 974.07 (10) (a) 4. of the statutes is amended to read:

15 974.07 (10) (a) 4. An order discharging the movant from custody, as defined in  
16 s. ~~968.205~~ 968.645 (1) (a), if the movant is in custody.

17 **SECTION 1113.** 974.08 (title) of the statutes is created to read:

18 **974.08 (title) Defendant's presence at postconviction proceedings.**

19 **SECTION 1114.** 974.08 (1) of the statutes is created to read:

20 974.08 (1) A defendant has the right to be present at a postconviction  
21 proceeding when the hearing will address substantial issues of fact as to events in  
22 which the defendant participated and those issues are supported by more than mere  
23 allegations.

24 **SECTION 1115.** 974.08 (2) and (3) of the statutes are created to read:

**ASSEMBLY BILL 383**

1           974.08 **(2)** A defendant need not be present at the pronouncement or entry of  
2 an order granting or denying relief under s. 974.02, 974.03, 974.06, or 974.07. If the  
3 defendant is not present, the time for appealing the order shall commence after a  
4 copy has been served upon the defendant's counsel or, if he or she appeared without  
5 counsel, upon the defendant, except as provided in sub. (3). Service of such an order  
6 shall be complete upon mailing.

7           **(3)** A defendant appearing without counsel shall supply the court with his or  
8 her current mailing address. If the defendant fails to supply the court with a current  
9 and accurate mailing address, the defendant's failure to receive a copy of the order  
10 granting or denying relief shall not be a ground for tolling the time in which an appeal  
11 must be taken.

12           **SECTION 1116.** 974.09 (title) of the statutes is created to read:

13           **974.09** (title) **Release pending appeal.**

14           **SECTION 1117.** Chapter 975 (title) of the statutes is repealed and recreated to  
15 read:

16                                                   **CHAPTER 975**

17                                                                                                   **MENTAL ISSUES IN CRIMINAL**

18                                                                                                                                                   **PROCEEDINGS: COMPETENCY AND**

19                                                                                                                                                                                                   **RESPONSIBILITY**

20           **SECTION 1118.** 975.001 of the statutes is repealed.

21           **SECTION 1119.** 975.01 of the statutes is repealed.

22           **SECTION 1120.** 975.06 of the statutes is repealed.

23           **SECTION 1121.** 975.07 of the statutes is repealed.

24           **SECTION 1122.** 975.08 of the statutes is repealed.

25           **SECTION 1123.** 975.09 of the statutes is repealed.





**ASSEMBLY BILL 383**

1 developmental disability, alcoholism, or drug dependence in order to make an  
2 informed choice as to whether to accept or refuse medication or treatment.

3 (3) "Physician" has the meaning given in s. 448.01 (5).

4 (4) "Psychologist" means a person holding a valid license under s. 455.04.

5 **SECTION 1133.** Subchapter II (title) of chapter 975 [precedes 975.30] of the  
6 statutes is created to read:

7 **CHAPTER 975**

8 **SUBCHAPTER II**

9 **COMPETENCY**

10 **SECTION 1134.** 975.31 (title) of the statutes is created to read:

11 **975.31 (title) Raising the issue of competency.**

12 **SECTION 1135.** 975.31 (2) of the statutes is created to read:

13 975.31 (2) (a) If reason to doubt a defendant's competency to proceed arises  
14 before judgment, the court shall not order an examination into competency until it  
15 has found that it is probable that the defendant committed the offense charged.

16 (b) The finding under par. (a) may be based upon the complaint and material  
17 providing the factual basis for the complaint, or, if the defendant submits an affidavit  
18 alleging with particularity that the averments of the complaint are materially false,  
19 upon the complaint and the evidence presented at a hearing ordered by the court.  
20 The defendant may call and cross-examine witnesses at a probable cause hearing  
21 under this section. If the court finds that it is probable that the defendant committed  
22 the offense charged, the court shall order an examination of the defendant under s.  
23 975.32.

**ASSEMBLY BILL 383**

1 (c) If the court does not find that it is probable that the defendant committed  
2 the offense charged, the court shall dismiss the charge without prejudice and release  
3 the defendant.

4 **SECTION 1136.** 975.32 (title) of the statutes is created to read:

5 **975.32 (title) Competency examination.**

6 **SECTION 1137.** 975.32 (2) of the statutes is created to read:

7 975.32 (2) Notwithstanding sub. (1), if the parties agree that a previously  
8 conducted mental examination provides a sufficient basis for the court to make the  
9 determination under s. 975.34 and the court concurs, a new examination need not  
10 be ordered.

11 **SECTION 1138.** 975.32 (4) of the statutes is created to read:

12 975.32 (4) If the defendant is in custody, the court may order an inpatient or  
13 outpatient examination and all of the following apply:

14 (a) Any outpatient examination for a defendant in custody shall be conducted  
15 in a jail or locked unit of a facility.

16 (b) If an inpatient examination is determined by the court to be necessary for  
17 a defendant in custody, the defendant may be committed to a suitable mental health  
18 facility. If the examination is to be conducted by the department under par. (c), the  
19 court shall order the individual to the facility designated by the department.

20 (c) If the court orders a defendant in custody to be examined by the department  
21 or a department facility, the department shall determine where the examination will  
22 be conducted, who will conduct the examination, and whether the examination will  
23 be conducted on an inpatient or outpatient basis. If an outpatient examination is  
24 begun by or through the department, and the department later determines that  
25 inpatient examination is necessary, the sheriff shall transport the defendant to the

**ASSEMBLY BILL 383**

1 inpatient facility designated by the department. In any case under this paragraph  
2 in which the department determines that an inpatient examination is necessary, the  
3 15-day period under sub. (6) (a) begins upon the arrival of the defendant at the  
4 inpatient facility.

5 **SECTION 1139.** 975.32 (7) of the statutes is created to read:

6 975.32 (7) Days spent in a mental health facility for an inpatient competency  
7 examination ordered under this section count as days spent in custody under s.  
8 973.155.

9 **SECTION 1140.** 975.32 (10) of the statutes is created to read:

10 975.32 (10) The court may order additional experts to examine the defendant  
11 at any stage of the proceedings to determine the defendant's competency to proceed.

12 **SECTION 1141.** 975.33 (title) of the statutes is created to read:

13 **975.33 (title) Examination report.**

14 **SECTION 1142.** 975.33 (1) (f) of the statutes is created to read:

15 975.33 (1) (f) If the examiner reports that the defendant is not competent to  
16 proceed and that the defendant is not likely to become competent within the  
17 maximum period of commitment, as defined in s. 975.34 (6) (a), the examiner's  
18 opinion on whether the defendant meets the criteria for commitment under ch. 51  
19 or 55.

20 **SECTION 1143.** 975.34 of the statutes is created to read:

21 **975.34 Competency determination. (1) HEARING.** As soon as practicable  
22 after receiving the examiner's report under s. 975.33, the court shall hold a hearing  
23 on the defendant's competency to proceed and, if at issue, on the defendant's  
24 competency to refuse medication or treatment.

**ASSEMBLY BILL 383**

1           **(2) WAIVER OF HEARING.** Notwithstanding sub. (1), if the parties agree that a  
2 hearing is not necessary and the court concurs, the court may make a determination  
3 on the defendant's competency to proceed and, if relevant, the defendant's  
4 competency to refuse medication or treatment based on the court-ordered report and  
5 other information adduced.

6           **(3) BURDEN OF GOING FORWARD.** If a hearing is held under this section, the  
7 district attorney has the burden of going forward with the evidence.

8           **(4) BURDEN OF PERSUASION.** Regardless of who raised the issue of competency,  
9 the court may find the defendant competent to proceed only if, after hearing evidence  
10 or reviewing the reports submitted under s. 975.33, or both, the court finds by the  
11 greater weight of the evidence that the defendant is competent to proceed.

12           **(5) RESUMING PROCEEDINGS.** If the court finds the defendant competent to  
13 proceed, the court shall enter its finding on the record and shall resume the criminal  
14 proceedings.

15           **(6) SUSPENDING PROCEEDINGS; COMMITMENT FOR TREATMENT.** (a) In this  
16 subsection, "maximum period of commitment" means the greatest maximum  
17 sentence length for any crime for which the defendant is charged, including  
18 imprisonment authorized by any applicable penalty enhancement statutes, or 12  
19 months, whichever is less.

20           (b) If the court does not find by the greater weight of the evidence that the  
21 defendant is competent to proceed, the court shall find that the defendant is not  
22 competent, shall enter its finding on the record, shall suspend the criminal  
23 proceedings, and shall do one of the following:

**ASSEMBLY BILL 383**

1           1. If the court finds by the greater weight of the evidence that the defendant  
2 is not likely to become competent within the maximum period of commitment, the  
3 court shall order that the defendant be released, except as provided in s. 975.38.

4           2. If the court finds by the greater weight of the evidence that the defendant  
5 is likely to become competent within the maximum period of commitment without  
6 inpatient treatment, the court shall order that the defendant be released. The court  
7 may require the defendant to participate in outpatient treatment, undergo periodic  
8 reexaminations to determine whether the defendant has become competent to  
9 proceed, or both, for a period that does not exceed the maximum period of  
10 commitment.

11           3. If the court finds by clear and convincing evidence that the defendant is likely  
12 to become competent within the maximum period of commitment if provided  
13 appropriate inpatient treatment, proceed under sub. (7).

14           **(7) COMMITMENT FOR TREATMENT.**

15           **(8) COMPETENCY TO REFUSE MEDICATION OR TREATMENT.** If the defendant is  
16 committed to the department under sub. (7) and the state proves by clear and  
17 convincing evidence that the defendant is not competent to refuse medication or  
18 treatment, the court shall find, without a jury, that the defendant is not competent  
19 to refuse medication or treatment, and order that whoever administers medication  
20 or treatment to the defendant shall observe appropriate medical standards.

21           **SECTION 1144.** 975.36 (title) of the statutes is created to read:

22           **975.36 (title) Reexamination of defendant's competency.**

23           **SECTION 1145.** 975.36 (2) of the statutes is created to read:

24           975.36 **(2) REPORTS AT OTHER TIMES.** The department shall furnish written  
25 reports of examination to the court whenever it determines that the defendant has

**ASSEMBLY BILL 383**

1 become competent or that the defendant is not likely to become competent within the  
2 remaining commitment period. The reports shall comply with the requirements of  
3 sub. (1). The court shall schedule a review of a report under this subsection within  
4 14 days after the court receives the report.

5 **SECTION 1146.** 975.36 (4) of the statutes is created to read:

6 975.36 (4) FINAL REEXAMINATION. Before or at the end of the commitment, the  
7 court shall order the defendant discharged from the commitment and shall release  
8 the defendant, except as provided in s. 975.38.

9 **SECTION 1147.** 975.37 of the statutes is created to read:

10 **975.37 Involuntary medication to restore competency at trial.** The  
11 court may order involuntary medication to restore a defendant's competency to stand  
12 trial only if the court finds that there is a need for that medication sufficiently  
13 important to overcome the defendant's protected interest in refusing it. The court  
14 shall consider the effectiveness and side effects of the medication, the possible  
15 alternatives, and the medical appropriateness of the medication.

16 **SECTION 1148.** 975.38 (title) of the statutes is created to read:

17 **975.38 (title) Mental health commitment or protective placement.**

18 **SECTION 1149.** 975.39 of the statutes is created to read:

19 **975.39 Competency to pursue postconviction relief. (1) APPLICABILITY.**  
20 The court shall proceed under this section whenever there is reason to doubt a  
21 defendant's competency to seek postconviction relief under s. 809.30.

22 **(2) STANDARD.** A defendant lacks competency to pursue postconviction relief  
23 under s. 809.30 if he or she is unable, with a reasonable degree of rational  
24 understanding, to assist counsel or to make decisions committed by law to the  
25 defendant.

**ASSEMBLY BILL 383**

1           **(3) DETERMINING COMPETENCY.** If the court determines that reason exists to  
2           doubt a defendant's competency to pursue postconviction relief under s. 809.30, it  
3           shall, as an exercise of its discretion, determine the method for evaluating a  
4           defendant's competency. A court may rely upon the affidavits of counsel, a  
5           stipulation, or the court's observation of the defendant. A court may order an  
6           examination of the defendant by a person with specialized knowledge. A court may,  
7           in its discretion, hold a hearing before determining a defendant's competency. Any  
8           hearing conducted under this subsection shall be governed by s. 975.34 to the extent  
9           practicable.

10           **(4) ALTERNATIVES PENDING A COMPETENCY DETERMINATION.** Pending a  
11           determination of competency to pursue postconviction relief or after a finding that  
12           the defendant lacks competency, the applicable court may do any of the following:

13           (a) The circuit court may allow the initiation or continuation of proceedings on  
14           any issue raised by the defendant's attorney that rests on the records, does not  
15           require the defendant to assist counsel or make a decision, and involves no risk to  
16           the defendant.

17           (b) The court of appeals may grant the defendant a continuance or an  
18           enlargement of time for filing necessary notices or motions for postconviction relief.

19           **(5) APPOINTING A GUARDIAN; ORDERING TREATMENT.** If the court finds that the  
20           defendant lacks competency to pursue postconviction relief, the court may do any of  
21           following:

22           (a) Appoint a guardian to make decisions that the law requires the defendant  
23           to make.

24           (b) Order treatment to restore the defendant to competency to pursue  
25           postconviction relief.



**ASSEMBLY BILL 383**

1           **(6) RAISING ISSUES AFTER COMPETENCY IS REGAINED.** A defendant who lacks  
2 competency to pursue postconviction relief at the time he or she seeks postconviction  
3 relief may, after regaining competency, raise any issue at a later proceeding that he  
4 or she did not raise earlier because of incompetency.

5           **SECTION 1150.** Subchapter III (title) of chapter 975 [precedes 975.50] of the  
6 statutes is created to read:

**CHAPTER 975****SUBCHAPTER III****MENTAL RESPONSIBILITY**

9  
10           **SECTION 1151.** 975.51 (4) (b) of the statutes is created to read:

11           975.51 (4) (b) If a physician, psychologist, or other expert examines the  
12 defendant at the request of the state, the examiner may not testify at trial regarding  
13 the mental condition of the defendant unless the examiner provides a report of his  
14 or her examination of the defendant to the defendant or defendant's attorney at least  
15 15 days before trial.

16           **SECTION 1152.** 975.51 (5) (b) of the statutes is created to read:

17           975.51 (5) (b) A physician, psychologist, or other expert may not testify  
18 regarding the defendant's need for medication or treatment or competence to refuse  
19 medication or treatment before a jury that is determining the ability of the defendant  
20 to appreciate the wrongfulness of his or her conduct or to conform his or her conduct  
21 with the requirements of law at the time of the commission of the criminal offense  
22 charged.

23           **SECTION 1153.** 975.52 (1) of the statutes is created to read:

24           975.52 (1) **JOINED WITH A PLEA OF GUILTY OR NO CONTEST.** If a defendant joins a  
25 plea of guilty or no contest with a plea of not guilty by reason of mental disease or

1 defect, the court shall first determine whether to accept the plea of guilty or no  
2 contest. If the plea is accepted, the court shall proceed under sub. (3).

3 **SECTION 1154.** 975.52 (4) (title) of the statutes is created to read:

4 975.52 (4) (title) ENTERING JUDGMENT.

5 **SECTION 1155.** 975.53 (title) of the statutes is created to read:

6 **975.53 Notice of restrictions.**

7 **SECTION 1156.** 975.54 (title) of the statutes is created to read:

8 **975.54 (title) Sexual assault; supervision, registration, and testing.**

9 **SECTION 1157.** 975.56 (title) of the statutes is created to read:

10 **975.56 (title) Precommitment examination.**

11 **SECTION 1158.** 975.57 (2) (e) of the statutes is created to read:

12 975.57 (2) (e) *Commitment credit.* A person committed under par. (a), (b), or  
13 (d) shall be given credit for all days spent in custody in connection with the course  
14 of conduct for which the commitment is imposed. The standards in s. 973.155 for  
15 determining sentence credit for convicted persons apply to determining commitment  
16 credit under this section.

17 **SECTION 1159.** 975.57 (3) of the statutes is created to read:

18 975.57 (3) INSTITUTIONALIZED CARE. If the court orders the person  
19 institutionalized under this section, the department shall place the person in an  
20 institution under s. 51.37 (3) that the department considers appropriate in light of  
21 the rehabilitative services required by the person and the protection of public safety.

22 **SECTION 1160.** 975.57 (4) (title) of the statutes is created to read:

23 975.57 (4) (title) CONDITIONAL RELEASE.

24 **SECTION 1161.** 975.57 (4) (b) and (c) of the statutes are created to read:

**ASSEMBLY BILL 383**

1           975.57 (4) (b) An order for conditional release places the person in the custody  
2           and control of the department. A conditionally released person is subject to the  
3           conditions set by the court and to the rules of the department. The court, for cause  
4           and by order, may modify the conditions of release.

5           (c) Before a person is conditionally released by the court under this subsection,  
6           the court shall notify the municipal police department and county sheriff for the area  
7           where the person will be residing. The notification requirement does not apply if a  
8           municipal department or county sheriff submits to the court a written statement  
9           waiving the right to be notified.

10           **SECTION 1162.** 975.57 (5) (title) of the statutes is created to read:

11           975.57 (5) (title) COMPETENCE TO REFUSE MEDICATION.

12           **SECTION 1163.** 975.59 (5) (title) of the statutes is created to read:

13           975.59 (5) (title) CONDITIONAL RELEASE.

14           **SECTION 1164.** 975.59 (5) (b) and (c) of the statutes are created to read:

15           975.59 (5) (b) An order for conditional release places the person in the custody  
16           and control of the department. A conditionally released person is subject to the  
17           conditions set by the court and to the rules of the department. The court, for cause  
18           and by order, may modify the conditions of release.

19           (c) Before a person is conditionally released by the court under this subsection,  
20           the court shall notify the municipal police department and county sheriff for the area  
21           where the person will be residing. The notification requirement does not apply if a  
22           municipal police department or county sheriff submits to the court a written  
23           statement waiving the right to be notified.

24           **SECTION 1165.** 975.61 (1) (d) of the statutes is created to read:

**ASSEMBLY BILL 383**

1           975.61 (1) (d) The corporation counsel in the municipality and county in which  
2 the commitment order was entered.

3           **SECTION 1166.** 975.62 (title) of the statutes is created to read:

4           **975.62 (title) Notice of change in status of committed person.**

5           **SECTION 1167.** 975.62 (1) (d) of the statutes is created to read:

6           975.62 (1) (d) "Victim's representative" means the victim or, if the victim died  
7 as a result of the crime, an adult member of the victim's family, or, if the victim is  
8 younger than 18 years old, the victim's parent or legal guardian.

9           **SECTION 1168.** 975.62 (2), (3) and (4) of the statutes are created to read:

10           975.62 (2) If the court conditionally releases a person under s. 975.57 (4) or  
11 975.59, the district attorney who prosecuted the crime for which the person was  
12 committed shall notify the department of corrections and make a reasonable attempt  
13 to notify the victim's representative of the conditional release.

14           (3) If the court terminates a person's commitment order under s. 975.60 or  
15 discharges a person under s. 975.61, the department shall notify the department of  
16 corrections and, if the victim's representative has submitted a card under sub. (5),  
17 the victim's representative of the termination or discharge.

18           (4) Notice under sub. (2) or (3) shall include the name of the person who is  
19 conditionally released or discharged or whose commitment order is terminated and  
20 the date of conditional release, termination, or discharge, whichever is applicable.  
21 The district attorney or the department, whichever is applicable, shall send the  
22 notice, postmarked no later than 7 days after the court orders the conditional release,  
23 termination, or discharge, to the department of corrections and to the last-known  
24 address of the victim's representative.

25           **SECTION 1169.** 975.63 (3) of the statutes is created to read:

**ASSEMBLY BILL 383**

1           975.63 (3) All hearings under ss. 975.55 to 975.61 shall be before a judge  
2 without a jury.

3           **SECTION 1170.** 977.05 (4) (h) of the statutes is amended to read:

4           977.05 (4) (h) Accept requests for legal services from persons who are entitled  
5 to be represented by counsel under s. 48.23, 51.60, 55.105, or 938.23 and from  
6 indigent persons who are entitled to be represented by counsel under s. ~~967.06~~  
7 971.013 or who are otherwise so entitled under the constitution or laws of the United  
8 States or this state and provide such persons with legal services when, in the  
9 discretion of the state public defender, such provision of legal services is appropriate.

10          **SECTION 1171.** 977.05 (4) (j) of the statutes is amended to read:

11          977.05 (4) (j) Subject to sub. (6) (e) and (f), at the request of any person  
12 determined by the state public defender to be indigent or upon referral of any court,  
13 prosecute a writ of error, appeal, action or proceeding for habeas corpus or other  
14 postconviction or post-commitment remedy on behalf of the person before any court,  
15 if the state public defender determines the case should be pursued. The state public  
16 defender must pursue the case of any indigent person entitled to counsel under s.  
17 ~~971.17 (7) (b) 1.~~ 975.63 (2) (a) or 980.03 (2) (a).

18          **SECTION 1172.** 977.05 (6) (b) 2. of the statutes is amended to read:

19          977.05 (6) (b) 2. The judge ~~or circuit court commissioner~~ before whom the  
20 proceedings shall be held certifies to the state public defender that the person will  
21 not be incarcerated if he or she is found in contempt of court.

22          **SECTION 1173.** 977.05 (6) (e) (intro.) and 2. of the statutes are amended to read:

23          977.05 (6) (e) (intro.) The state public defender may not provide legal services  
24 or assign counsel for a person who files a motion to modify sentence under s. ~~973.19~~  
25 974.03 (1) (a), or for a person who appeals, under s. ~~973.19 (4)~~ 974.03 (1) (d), the denial

**ASSEMBLY BILL 383**

1 of a motion to modify sentence filed under s. ~~973.19~~ 974.03 (1) (a), unless the person  
2 does one of the following:

3 2. Files the motion to modify sentence under s. ~~973.19~~ 974.03 (1) (a) within 20  
4 days after the sentence or order is entered.

5 **SECTION 1174.** 977.072 (title) of the statutes is created to read:

6 **977.072** (title) **Transcript or court record; costs.**

7 **SECTION 1175.** 978.045 (1r) (intro.) of the statutes is amended to read:

8 978.045 (1r) (intro.) Any judge of a court of record, by an order entered in the  
9 record stating the cause for it, may appoint an attorney as a special prosecutor to  
10 perform, for the time being, or for the trial of the accused person, the duties of the  
11 district attorney. An attorney appointed under this subsection shall have all of the  
12 powers of the district attorney. The judge may appoint an attorney as a special  
13 prosecutor at the request of a district attorney to assist the district attorney in the  
14 prosecution of persons charged with a crime, in grand jury proceedings ~~or, in~~ John  
15 Doe proceedings under s. ~~968.26~~ 968.105, in proceedings under ch. 980, or in  
16 investigations. The judge may appoint an attorney as a special prosecutor if any of  
17 the following conditions exists:

18 **SECTION 1176.** 978.045 (1r) (i) of the statutes is amended to read:

19 978.045 (1r) (i) A judge determines that a complaint received under s. ~~968.26~~  
20 968.105 (2) (am) relates to the conduct of the district attorney to whom the judge  
21 otherwise would refer the complaint.

22 **SECTION 1177.** 978.05 (3) of the statutes is amended to read:

23 978.05 (3) JOHN DOE PROCEEDINGS. Participate in investigatory proceedings  
24 under s. ~~968.26~~ 968.105.

25 **SECTION 1178.** 978.05 (4) of the statutes is amended to read:

**ASSEMBLY BILL 383**

1           978.05 (4) GRAND JURY. When requested by a grand jury under s. 968.47  
2           968.225, attend the grand jury for the purpose of examining witnesses in their  
3           presence; give the grand jury advice in any legal matter; draw bills of indictment; and  
4           issue subpoenas and other processes to compel the attendance of witnesses.

5           **SECTION 1179.** 978.05 (6) (a) of the statutes is amended to read:

6           978.05 (6) (a) Institute, commence, or appear in all civil actions or special  
7           proceedings under and perform the duties set forth for the district attorney under ch.  
8           980 and ss. 17.14, 30.03 (2), 48.09 (5), 59.55 (1), 59.64 (1), 70.36, 103.50 (8), 103.92  
9           (4), 109.09, 343.305 (9) (a), 453.08, 806.05, 938.09, 938.18, 938.355 (6) (b) and (6g) (a),  
10          946.86, 946.87, 961.55 (5), ~~971.14~~ and 973.075 to 973.077 and subch. II of ch. 975,  
11          perform any duties in connection with court proceedings in a court assigned to  
12          exercise jurisdiction under chs. 48 and 938 as the judge may request and perform all  
13          appropriate duties and appear if the district attorney is designated in specific  
14          statutes, including matters within chs. 782, 976 and 979 and subch. I of ch. 968 and  
15          ss. 51.81 to 51.85. Nothing in this paragraph limits the authority of the county board  
16          to designate, under s. 48.09 (5), that the corporation counsel provide representation  
17          as specified in s. 48.09 (5) or to designate, under s. 48.09 (6) or 938.09 (6), the district  
18          attorney as an appropriate person to represent the interests of the public under s.  
19          48.14 or 938.14.

20          **SECTION 1180.** 978.06 (4) of the statutes is amended to read:

21          978.06 (4) No person who acted as district attorney, deputy district attorney  
22          or assistant district attorney, or special prosecutor under s. 978.045, for a county at  
23          the time of an arrest, examination or indictment of any person charged with a crime  
24          in that county may thereafter appear for, or defend that person against the crime  
25          charged in the complaint, ~~information~~ or indictment.

**ASSEMBLY BILL 383**

1           **SECTION 1181.** 978.08 (1) (a) and (b) and (2) of the statutes are amended to read:

2           978.08 (1) (a) “Custody” has the meaning given in s. ~~968.205~~ 968.645 (1) (a).

3           (b) “Discharge date” has the meaning given in s. ~~968.205~~ 968.645 (1) (b).

4           **(2)** Except as provided in sub. (3), if physical evidence that is in the possession  
5 of a district attorney includes any biological material that was collected in connection  
6 with a criminal investigation that resulted in a criminal conviction, delinquency  
7 adjudication, or commitment under s. ~~971.17 subch. III of ch. 975~~ or s. 980.06 and the  
8 biological material is from a victim of the offense that was the subject of the criminal  
9 investigation or may reasonably be used to incriminate or exculpate any person for  
10 the offense, the district attorney shall preserve the physical evidence until every  
11 person in custody as a result of the conviction, adjudication, or commitment has  
12 reached his or her discharge date.

13           **SECTION 1182.** 979.02 of the statutes is amended to read:

14           **979.02 Autopsies.** The coroner, medical examiner or district attorney may  
15 order the conducting of an autopsy upon the body of a dead person any place within  
16 the state in cases where an inquest might be had as provided in s. ~~979.04~~ 968.015  
17 notwithstanding the fact that no such inquest is ordered or conducted. The autopsy  
18 shall be conducted by a licensed physician who has specialized training in pathology.  
19 The district attorney may move the ~~circuit~~ court for the county in which the body is  
20 buried for an order disinterring the body for purposes of autopsy. The order shall be  
21 granted by the ~~circuit~~ court upon a reasonable showing that any of the criteria  
22 specified in s. ~~979.04~~ 968.015 exists. This section does not prevent additional  
23 autopsies or examinations of the body if there are unanswered pathological  
24 questions concerning the death and the causes of death.

25           **SECTION 1183.** 979.025 (1) of the statutes is amended to read:



**ASSEMBLY BILL 383**

1           979.025 (1) INMATE CONFINED TO AN INSTITUTION IN THIS STATE. If an individual  
2 dies while he or she is in the legal custody of the department and confined to a  
3 correctional facility located in this state, the coroner or medical examiner of the  
4 county where the death occurred shall perform an autopsy on the deceased  
5 individual. If the coroner or medical examiner who performs the autopsy determines  
6 that the individual's death may have been the result of any of the situations that  
7 would permit the district attorney to order an inquest under s. 979.04 968.015 (1),  
8 the coroner or medical examiner shall follow the procedures under s. 979.04 968.015  
9 (2).

10           **SECTION 1184.** 979.025 (2) of the statutes is amended to read:

11           979.025 (2) INMATE CONFINED IN AN INSTITUTION IN ANOTHER STATE. If an  
12 individual dies while he or she is in the legal custody of the department and confined  
13 to a correctional facility in another state under a contract under s. 301.07, 301.21,  
14 or 302.25, the department shall have an autopsy performed by an appropriate  
15 authority in the other state or by the coroner or medical examiner of the county in  
16 which the circuit court is located that sentenced the individual to the custody of the  
17 department. If the coroner or medical examiner who performs the autopsy in this  
18 state determines that the individual's death may have been the result of any of the  
19 situations that would permit the district attorney to order an inquest under s. 979.04  
20 968.015 (1), the coroner or medical examiner shall forward the results of the autopsy  
21 to the appropriate authority in the other state.

22           **SECTION 1185.** 979.04 of the statutes is renumbered 968.015 and amended to  
23 read:

24           **968.015 Inquests: when When inquests may be called.** (1) If the district  
25 attorney has notice of the death of any person and there is reason to believe from the

**ASSEMBLY BILL 383**

1 circumstances surrounding the death that the person was a victim of felony murder,  
2 first-degree or 2nd-degree intentional homicide, first-degree or 2nd-degree  
3 reckless homicide, homicide by negligent handling of dangerous weapon, explosives,  
4 or fire, homicide by negligent operation of vehicle, homicide resulting from negligent  
5 control of a vicious animal ~~or~~, homicide by intoxicated user of a vehicle or firearm ~~may~~  
6 ~~have been committed, or that death may have been due to suicide or~~ the person died  
7 under unexplained or suspicious circumstances, the district attorney may order that  
8 an inquest be conducted for the purpose of inquiring how the person died. The  
9 ~~district attorney shall appear in any such inquest representing the state in~~  
10 ~~presenting all evidence which may be relevant or material to the inquiry of the~~  
11 ~~inquest. The inquest may be held in any county in this state in which venue would~~  
12 ~~lie for the trial of any offense charged as the result of or involving the death.~~

13 (4) An inquest may ~~only~~ be ordered only by the district attorney acting under  
14 ~~this subsection sub. (1)~~ or by the circuit judge under sub. (2).

15 (2) If the coroner or medical examiner has knowledge of the death of any knows  
16 that a person has died in the manner or under the circumstances described ~~under in~~  
17 sub. (1), he or she ~~shall immediately notify the district attorney. The notification~~  
18 ~~shall include information concerning the circumstances surrounding the death. The~~  
19 ~~coroner or medical examiner~~ may request the district attorney to order an inquest  
20 under sub. (1). If the district attorney refuses to order the inquest, ~~a~~ the coroner  
21 or medical examiner may petition the circuit court to order an inquest. The court  
22 may issue the order if it finds that the district attorney has abused his or her  
23 discretion in not ordering an inquest.

24 (3) ~~Subsequent to receipt of~~ After receiving notice of the death, the district  
25 attorney may request the coroner or medical examiner to conduct a preliminary

**ASSEMBLY BILL 383**

1 investigation and report back to the district attorney. The district attorney may  
2 determine the scope of the preliminary investigation. This subsection does not limit  
3 or prevent any other investigation into the death by any law enforcement agency  
4 with jurisdiction over the investigation.

5 **SECTION 1186.** 979.05 (title) of the statutes is repealed.

6 **SECTION 1187.** 979.05 (1) of the statutes is renumbered 968.025 (1) and  
7 amended to read:

8 968.025 (1) BY WHOM CONDUCTED. ~~An inquest shall be conducted by a circuit A~~  
9 ~~judge or a circuit court commissioner shall conduct each inquest.~~

10 **SECTION 1188.** 979.05 (2) of the statutes is renumbered 968.025 (2) and  
11 amended to read:

12 968.025 (2) BEFORE WHOM CONDUCTED. The inquest shall be conducted before  
13 a jury unless the district attorney, coroner, or medical examiner requests that the  
14 inquest be conducted before the judge ~~or circuit court commissioner~~ only.

15 (4) (a) If the inquest is to be conducted before a jury, the clerk shall select, in  
16 the manner provided in s. 756.06 (1), a sufficient number of names of prospective  
17 jurors ~~shall be selected from the prospective juror list for the county in which the~~  
18 ~~inquest is to be held by the clerk of circuit court in the manner provided in s. 756.06.~~  
19 ~~The judge or circuit court commissioner conducting the inquest shall summon the~~  
20 ~~prospective jurors to appear before the judge or circuit court commissioner at the~~  
21 ~~time fixed in the summons. The summons may be served by mail, or by personal~~  
22 ~~service if the judge, circuit court commissioner, or district attorney determines~~  
23 ~~personal service to be appropriate. The summons shall be in the form used to~~  
24 ~~summon petit jurors in the circuit courts of the county to ensure that the jury consists~~  
25 of 6 members.

**ASSEMBLY BILL 383**

1           **(b)** Any person who fails to appear when summoned as an inquest juror is  
2 subject to a forfeiture of ~~shall forfeit~~ not more than \$40. ~~The inquest jury shall consist~~  
3 ~~of 6 jurors. If 6 jurors do not remain~~

4           **(d)** If, after all prospective jurors have been examined, fewer than 12 remain  
5 ~~from the number originally summoned after establishment of qualifications, the~~  
6 ~~judge or circuit court commissioner conducting the inquest may require~~ shall direct  
7 ~~the clerk of the circuit court to select to draw~~ sufficient additional jurors' names.  
8 ~~Those persons shall be summoned forthwith by the~~ The sheriff of the county shall  
9 summon those persons immediately.

10           **SECTION 1189.** 979.05 (3) of the statutes is renumbered 968.025 (4) (c) and  
11 amended to read:

12           968.025 (4) (c) The judge ~~or circuit court commissioner~~ shall examine on oath  
13 or affirmation each person who is called as a juror to discover whether the juror is  
14 related by blood, or marriage ~~or adoption~~ to the decedent, any member of the  
15 decedent's family, the district attorney, any other attorney appearing in the case, or  
16 any members of the office of the district attorney or of the office of any other attorney  
17 appearing in the case, has expressed or formed any opinion regarding the matters  
18 being inquired into in the inquest, or is aware of or has any bias or prejudice  
19 concerning the matters being inquired into in the inquest. ~~If any prospective juror~~  
20 ~~is found~~ The court shall excuse any prospective juror whom it finds to be not  
21 ~~indifferent or is found to have formed an opinion which~~ that cannot be laid aside, ~~that~~  
22 ~~juror shall be excused. The judge or circuit commissioner may select one or more~~  
23 ~~alternate jurors if the inquest is likely to be protracted. This subsection~~ paragraph  
24 ~~does not limit the right of the district attorney to supplement the judge's or circuit~~  
25 ~~commissioner's examination of any prospective jurors as to qualifications.~~

**ASSEMBLY BILL 383**

1           **SECTION 1190.** 979.05 (4) of the statutes is renumbered 968.025 (5) and  
2 amended to read:

3           968.025 (5) OATH. ~~When~~ After the jurors have been selected, the judge or  
4 circuit court commissioner shall administer to them an oath or affirmation which  
5 shall be substantially in the following form:

6           You do solemnly swear (affirm) that you will diligently inquire and determine  
7 on behalf of this state when, and in what manner and by what means, the person  
8 known as .... who is now dead came to his or her death and that you will return  
9 a true verdict thereon according to your knowledge, according to the evidence  
10 presented, and according to the instructions given to you by the .... (judge) (circuit  
11 court commissioner).

12           **SECTION 1191.** 979.05 (5), (6) and (7) of the statutes are renumbered 968.025  
13 (6), (7) and (8) and amended to read:

14           968.025 (6) ROLE OF DISTRICT ATTORNEY. ~~Prior to the submission of evidence to~~  
15 ~~the jury, the judge or circuit court commissioner may instruct the jury on its duties~~  
16 ~~and on the substantive law regarding the issues which may be inquired into before~~  
17 ~~the jury~~ The district attorney shall appear in each inquest, represent the state, and  
18 present all evidence that may be relevant or material to the inquiry of the inquest.

19           The district attorney may, at any time during the course of the inquest, make  
20 statements to the jury relating to procedural or evidentiary matters he or she and  
21 the judge or circuit court commissioner deem appropriate. ~~Section 972.12 applies to~~  
22 ~~the conduct of the inquest jury.~~

23           **(7) SECURITY AND SEQUESTRATION.** The judge or circuit court commissioner  
24 conducting the inquest may order that proceedings be secret if the district attorney  
25 so requests or concurs and may sequester the inquest jury under s. 972.05.

**ASSEMBLY BILL 383**

1           **(8) JUROR COMPENSATION.** Inquest jurors shall receive the same compensation  
2 as jurors under s. 756.25.

3           **SECTION 1192.** 979.06 (title), (1), (2) and (5) of the statutes are repealed.

4           **SECTION 1193.** 979.06 (3), (4) and (6) of the statutes are renumbered 968.035  
5 (1), (2) and (3), and 968.035 (1) and (2), as renumbered, are amended to read:

6           968.035 **(1)** Any witness examined at an inquest may have counsel present  
7 during the examination of that witness. The counsel may consult with a client during  
8 the examination of that client. The counsel may not examine or cross-examine his  
9 or her client, cross-examine or call other witnesses, or argue before the judge or  
10 ~~circuit court commissioner~~ holding the inquest.

11           **(2)** The judge or ~~circuit court commissioner~~ shall administer an oath or  
12 affirmation to each witness ~~which shall be substantially in the following form:~~

13           ~~You do solemnly swear (affirm) that the evidence and testimony you give to this~~  
14 ~~inquest concerning the death of the person known as .... shall be the truth, the~~  
15 ~~whole truth and nothing but the truth and shall cause the testimony given by all~~  
16 ~~witnesses to be reduced to writing or recorded.~~

17           **SECTION 1194.** 979.07 of the statutes is repealed.

18           **SECTION 1195.** 979.08 (title) of the statutes is renumbered 968.055 (title).

19           **SECTION 1196.** 979.08 (1) of the statutes is renumbered 968.055 (1) and  
20 amended to read:

21           968.055 **(1)** ~~When the Before submitting evidence is concluded and the~~  
22 ~~testimony closed to the jury in an inquest,~~ the judge or ~~circuit court commissioner~~  
23 shall may instruct the jury on its duties and on the substantive law regarding the  
24 issues that may be inquired into before the jury. The

**ASSEMBLY BILL 383**

1           (2) After all of the evidence is presented, the district attorney shall prepare a  
2 written set of appropriate requested instructions and shall submit them to the judge  
3 or circuit court commissioner who, together with the district attorney, a written set  
4 of proposed instructions on the jury's duties and on the substantive law regarding  
5 the issues inquired into before the jury. The judge shall compile the final set of  
6 instructions which shall be given. The instructions shall include those instructions  
7 for criminal offenses for which the judge or circuit court commissioner believes a  
8 reasonable jury might return a verdict based upon a finding of probable cause. The  
9 judge shall use the final instructions to instruct the jury and shall provide the jury  
10 with one complete set of them.

11           **SECTION 1197.** 979.08 (2) of the statutes is repealed.

12           **SECTION 1198.** 979.08 (3) (intro.) and (4) of the statutes are consolidated,  
13 renumbered 968.055 (3) (intro.) and amended to read:

14           968.055 (3) (intro.) The jury shall retire to consider its verdict after hearing all  
15 of the testimony and evidence, making all necessary inquiries, and having been  
16 instructed in the law. ~~The judge or circuit court commissioner shall provide the jury~~  
17 ~~with one complete set of written instructions providing the substantive law to be~~  
18 ~~applied to the issues to be decided. The verdict shall be in a form which permits the~~  
19 ~~following findings: (4) The jury shall render its verdict shall be based upon a finding~~  
20 ~~of probable cause, be unanimous, and be rendered in writing, signed by all of its~~  
21 ~~members of the jury. The verdict shall set forth its the jury's findings from the~~  
22 ~~evidence produced according to the instructions. The verdict shall be in a form that~~  
23 ~~permits the following findings:~~

24           **SECTION 1199.** 979.08 (3) (a) of the statutes is renumbered 968.055 (3) (b) and  
25 amended to read:

**ASSEMBLY BILL 383**

1           968.055 (3) (b) Whether the deceased ~~came to his or her death by criminal~~  
2 means died as a result of a crime and, if so, the specific crimes committed and the  
3 name of the person or persons, if known, ~~having~~ who committed the crimes.

4           **SECTION 1200.** 979.08 (3) (b) of the statutes is renumbered 968.055 (3) (a) and  
5 amended to read:

6           968.055 (3) (a) Whether the deceased came to his or her death by natural  
7 causes, accident, suicide, or an act privileged by law.

8           **SECTION 1201.** 979.08 (5) of the statutes is renumbered 968.055 (4) and  
9 amended to read:

10           968.055 (4) The inquest jury's verdict delivered by the inquest jury is advisory  
11 and does not preclude or require the issuance of any criminal charges by the district  
12 attorney.

13           **SECTION 1202.** 979.08 (6) of the statutes is renumbered 968.055 (5) and  
14 amended to read:

15           968.055 (5) Any verdict so rendered under sub. (4), after being validated and  
16 signed by the judge ~~or circuit court commissioner~~, together with the record of the  
17 inquest, shall be delivered to the district attorney for consideration. After  
18 considering the verdict and record, the district attorney may deliver the entire  
19 inquest record or any part ~~thereof~~ of the record to the coroner or medical examiner  
20 for safekeeping.

21           **SECTION 1203.** 979.08 (7) of the statutes is renumbered 968.055 (6) and  
22 amended to read:

23           968.055 (6) The Except as provided in s. 971.43, the record of a secret inquest  
24 proceeding ~~shall~~ is not be open for inspection unless so ordered by the judge ~~or circuit~~  
25 ~~court commissioner~~ conducting the inquest ~~upon petition by the district attorney.~~



**ASSEMBLY BILL 383**

1           **SECTION 1204.** 979.09 of the statutes is amended to read:

2           **979.09 Burial of body.** If any judge ~~or circuit court commissioner~~ conducts  
3 an inquest as to the death of a stranger or of a person whose identity is unknown or  
4 whose body is unclaimed or if the district attorney determines that no inquest into  
5 the death of such a person is necessary and the ~~circuit~~ judge has not ordered an  
6 inquest under s. ~~979.04~~ 968.015 (2), the coroner or medical examiner shall cause the  
7 body to be decently buried or cremated and shall certify to all the charges incurred  
8 in taking any inquest by him or her and to the expenses of burial or cremation of the  
9 dead body. The charges and expenses shall be audited by the county board of the  
10 proper county and paid out of the county treasury.

11           **SECTION 1205.** 979.10 (2) of the statutes is amended to read:

12           **979.10 (2)** If a corpse is to be cremated, the coroner or medical examiner shall  
13 make a careful personal inquiry into the cause and manner of death, and conduct an  
14 autopsy or order the conducting of an autopsy, if in his or her or the district attorney's  
15 opinion it is necessary to determine the cause and manner of death. If the coroner  
16 or medical examiner determines that no further examination or judicial inquiry is  
17 necessary he or she shall certify that fact. Upon written request by the district  
18 attorney the coroner or medical examiner shall obtain the concurrence of the district  
19 attorney before issuing the certification. If the coroner or medical examiner  
20 determines that further examination or judicial inquiry is necessary, he or she shall  
21 notify the district attorney under s. ~~979.04~~ 968.015 (2).

22           **SECTION 1206.** 979.11 of the statutes is amended to read:

23           **979.11 Compensation of officers.** The sole compensation of the coroner and  
24 deputy coroners for attendance at an inquest and for any preliminary investigation  
25 under ~~this chapter~~ ch. 968 at the direction of the district attorney shall be a

**ASSEMBLY BILL 383**

1 reasonable sum set by the county board for each day actually and necessarily  
2 required for the purpose, and a sum set by the county board for each mile actually  
3 and necessarily traveled in performing the duty. Any coroner or deputy coroner may  
4 be paid an annual salary and allowance for traveling expenses to be established by  
5 the county board under s. 59.22 which shall be in lieu of all fees, per diem, and  
6 compensation for services rendered.

7 **SECTION 1207.** 979.22 of the statutes is amended to read:

8 **979.22 Autopsies and toxicological services by medical examiners.** A  
9 medical examiner may perform autopsies and toxicological services not required  
10 under this chapter or under subch. I of ch. 968 and may charge a fee established by  
11 the county board for such autopsies and services. The fee may not exceed an amount  
12 reasonably related to the actual and necessary cost of providing the service.

13 **SECTION 1208.** 980.015 (2) (c) of the statutes is amended to read:

14 980.015 (2) (c) The anticipated release of a person on conditional release under  
15 s. ~~971.17~~ 975.57 (4) or 975.59, the anticipated termination of a commitment order  
16 under ~~971.17~~ s. 975.60, or the anticipated discharge of a person from a commitment  
17 order under s. ~~971.17~~ 975.61, if the person has been found not guilty of a sexually  
18 violent offense by reason of mental disease or defect.

19 **SECTION 1209.** 980.015 (2) (d) of the statutes is amended to read:

20 980.015 (2) (d) The anticipated release on parole or discharge of a person  
21 committed under ch. 975, 2011 stats., for a sexually violent offense.

22 **SECTION 1210.** 980.031 (4) of the statutes is amended to read:

23 980.031 (4) If a party retains or the court appoints a licensed physician,  
24 licensed psychologist, or other mental health professional to conduct an examination  
25 under this chapter of the person's mental condition, the examiner shall have

**ASSEMBLY BILL 383**

1 reasonable access to the person for the purpose of the examination, as well as to the  
2 person's past and present treatment records, as defined in s. 51.30 (1) (b), and patient  
3 health care records as provided under s. 146.82 (2) (cm), past and present juvenile  
4 records, as provided under ss. 48.396 (6), 48.78 (2) (e), 938.396 (10), and 938.78 (2)  
5 (e), and the person's past and present correctional records, including presentence  
6 investigation reports under s. ~~972.15~~ 973.004 (6).

7 **SECTION 1211.** 980.036 (2) (c) of the statutes is amended to read:

8 980.036 (2) (c) Evidence obtained in the manner described under s. ~~968.31~~  
9 968.345 (2) (b), if the prosecuting attorney intends to use the evidence at the trial or  
10 proceeding.

11 **SECTION 1212.** 980.036 (6) of the statutes is amended to read:

12 980.036 (6) PROTECTIVE ORDER. Upon motion of a party, the court may at any  
13 time order that discovery, inspection, or the listing of witnesses required under this  
14 section be denied, restricted, or deferred, or make other appropriate orders. If the  
15 prosecuting attorney or the attorney for a person subject to this chapter certifies that  
16 listing a witness under sub. (2) (e) or (3) (a) may subject the witness or others to  
17 physical or economic harm or coercion, the court may order that the deposition of the  
18 witness be taken under s. ~~967.04 (2) to (6)~~ 967.21. The name of the witness need not  
19 be divulged prior to the taking of such deposition. If the witness becomes unavailable  
20 or changes his or her testimony, the deposition shall be admissible at trial as  
21 substantive evidence.

22 **SECTION 1213.** 990.01 (23) of the statutes is amended to read:

23 990.01 (23) NIGHTTIME. "Nighttime," used in any statute, ordinance,  
24 indictment or ~~information~~ complaint, means the time between one hour after sunset  
25 on one day and one hour before sunrise on the following day; and the time of sunset

**ASSEMBLY BILL 383**

1 and sunrise shall be ascertained according to the mean solar time of the ninetieth  
2 meridian west from Greenwich, commonly known as central time, as given in any  
3 almanac.

4 **SECTION 1214.** 995.50 (7) of the statutes is amended to read:

5 995.50 (7) No action for invasion of privacy may be maintained under this  
6 section if the claim is based on an act which is permissible under ss. s. 196.63 or  
7 968.27 to 968.37 under subch. IV of ch. 968.

8 **SECTION 1215. Initial applicability.**

9 (1) This act first applies to prosecutions commenced on the effective date of this  
10 subsection.

11 (2) This act first applies to proceedings, commitments, and requirements  
12 related to offenses committed on the effective date of this subsection.

13 **SECTION 1216. Effective dates.** This act takes effect on the day after  
14 publication, except as follows:

15 (1) The treatment of section 969.02 (3) (e) of the statutes takes effect on January  
16 1, 2014, or on the day after publication, whichever is later.

17 (2) The treatment of sections 165.76 (1) (g) (by SECTION 85), (1m) (by SECTION  
18 87), and (4) (a), (b), and (c), 165.765 (1m) and (2) (a) 1., 165.77 (2) (b) (by SECTION 93),  
19 (2m) (c) (by SECTION 95), and (3) (by SECTION 97), (4) (am) 1. and 2. (intro.), a., b. and  
20 d., 970.02 (8), and 971.027 (7) (title) of the statutes takes effect on April 1, 2015, or  
21 on the day after publication, whichever is later.

22 (END)